THE AMERICAN ENERGY INITIATIVE, PART 18: A FOCUS ON LEGISLATIVE RESPONSES TO RISING GASOLINE PRICES

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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C O N T E N T S

THE AMERICAN ENERGY INITIATIVE, PART 18: A FOCUS ON LEGISLATIVE RESPONSES TO RISING GASOLINE PRICES

WEDNESDAY, MARCH 28, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:54 a.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman of the subcommittee) presiding.

Members present: Representatives Whitfield, Shimkus, Terry, Burgess, Bilbray, Scalise, McMorris Rodgers, Olson, McKinley, Gardner, Pompeo, Griffith, Barton, Rush, Castor, Sarbanes, Markey, Green, Capps, and Waxman (ex officio).

Staff present: Gary Andres, Staff Director; Maryam Brown, Chief Counsel, Energy and Power; Allison Busbee, Legislative Clerk; Garret Golding, Professional Staff Member, Energy and Power; Cory Hicks, Policy Coordinator, Energy and Power; Heidi King, Chief Economist; Ben Lieberman, Counsel, Energy and Power; Mary Neumayr, Senior Energy Counsel; Andrew Powaleny, Deputy Press Secretary; Alison Cassady, Democratic Senior Professional Staff Member; Jacqueline Cohen, Democratic Counsel; Greg Dotson, Democratic Energy and Environment Staff Director; Caitlin Haberman, Democratic Policy Analyst; and Alexandra Teitz, Democratic Senior Counsel, Environment and Energy.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Mr. WHITFIELD. I would like to call this hearing to order. Today's hearing will be the 18th day of hearings on what we refer to as the American Energy Initiative. Today we are going to be focusing primarily on the Gasoline Regulations Act of 2012, which is—simply requires an interagency committee chaired by the Secretary of Energy to analyze the cumulative impacts of particular regulations on gas and diesel, and the impacts that that has on fuel prices and jobs.

And then the second bill that we are going to be considering is the Strategic Energy Production Act of 2012, which simply would require the Secretary of Energy in response to any "SPRO" drawdown to develop a plan with other Federal departments to open ad-

ditional Federal lands for oil and gas exploration and production to replace the oil in the drawdown.

Now, I want to take just a few minutes today—start my time there—take a few minutes today to make a few comments about the proposed regulation of EPA to regulate greenhouse gases, which was announced yesterday. Now, I am genuinely concerned about this for a lot of different reasons.

First of all, it is my genuine belief that EPA has not been totally straightforward with the American people on some of its regulations recently. Specifically I am talking about the Utility MACT, is one I will discuss first. The Utility MACT was sold to the American people as necessary to reduce mercury emissions, and the impression was that the benefits of the Utility MACT would come from reducing mercury emissions.

And yet the data and the statistics and the analysis of EPA show quite clearly that any benefits from reducing mercury were negligible. The primary benefits would come only from reduction of particulate matter, which is already regulated under the Clean Air Act.

In addition to that, there were no accurate or comprehensive analysis of the total cost of the Utility MACT. Now, we know that the purpose of it is to reduce production of electricity by using coal, but once again, I would say that I don't think that EPA was totally straightforward with the American people on that issue.

Now, on the greenhouse gas regulation, proposed regulation, Congress on three separation occasions has said no to regulating greenhouse gas under the Clean Air Act. Two-hundred and twenty-one members of Congress sent a letter to OMB, to Jeffrey Zients, asking that they delay any proposed regulation on greenhouse gas.

Not only did they not reply in any way, did not respond by letter, by phone call, or anything else, totally disregarded any input from 221 members of Congress. Now, I recognize this is a proposed regulation. But if this regulation is adopted, there will not be another coal power plant built in America without carbon capture and sequestration, because there is no other way to meet the standard. And we know that there is no commercially viable carbon capture and sequestration applicable to any coal-powered, that a coal-powered plant could use today to meet that requirement.

And we are also concerned that under new source review, if you modify an existing coal-powered plant to meet existing environmental regulations, that that might be, claim to be a new plant, and therefore, you have got to meet this new requirement.

Now, I know that there is an exception that says that is not the case, but we also know that historically lawsuits have been filed, and there have been all sorts of unintended consequences as a result.

And so if a lawsuit were filed against some company trying to modify an existing plant to meet existing regulations and a decision was made that, oh, this is a new plant, then we would have a catastrophic result, I believe, in America for meeting our electricity needs.

So I would simply want to express my genuine concern about the way we are going on these regulations.

[The prepared statement of Mr. Whitfield follows:]

STATEMENT OF CHAIRMAN ED WHTFIELD
Subcommittee on Energy and Power
The American Energy Initiative, 18th Day
March 28, 2012

The two discussion drafts we will examine today seek to move us in the right direction by adding balance and commonsense in our approach to high fuel prices.

There's never a good time to pursue bad policies, but the Obama administration has chosen a particularly terrible time to embark on an ill-advised anti-energy agenda.

People paying $75 for each fill-up at the gas station expect their government to be helping rather than hurting.

But, for over three years, this President has arguably done more to block domestic oil drilling than any of his predecessors, Democrat or Republican.

And at a time of high prices at the pump, his Environmental Protection Agency is poised to pile on a new wave of costly regulations affecting gasoline and diesel fuel.

These would be bad policies even if gasoline was at half its current price, just for the lost jobs and compromised energy security they would cause.

But with high and rising prices, there is even more reason to question why Washington continues to go in the wrong direction.

Unfortunately, we have seen little true change in direction from this administration, just a lot of media events where the President takes credit for energy projects he did nothing to help, plenty of misleading statistics about domestic oil, and short-term gimmicks instead of real solutions.

One such gimmick involves tapping the Strategic Petroleum Reserve *(abbreviation pronounced "SPRO")* to reduce prices.

The President did so last June, and there are indications he may try it again.

However, the "SPRO" is a stockpile of oil previously set aside for an emergency, such as a major disruption of supplies from the Middle-East.

Past attempts to use it in a non-emergency to bring down prices have never worked very well or for very long. Their only real consequence was to reduce the amount of oil on hand in case a true crisis arises.

In contrast, there is a far larger source of domestic oil than the "SPRO", one that is plentiful enough to influence prices for the long term – and that is the oil lying beneath the energy-rich federal lands and offshore areas that the President has chosen to place out of reach.

Simply put, the difference between tapping the "SPRO" and allowing increased American oil drilling is the difference between a short-term gimmick and a long-term solution.

The "Strategic Energy Production Act of 2012" requires that if the administration taps the "SPRO", it must also commit to opening up more of these vast off-limits areas to oil leasing.

This measure would help reduce the price of oil, but oil is not the only factor affecting the price at the pump.

There is also the cost of refining that oil into gasoline and diesel fuel.

EPA regulations, both those that target refinery emissions as well as those dictating the recipe for gasoline, contribute to those costs.

I might add that President Obama's Executive Order from January 2011 urged regulators to look for measures that can be streamlined or repealed. Gasoline regulations would be a great place to start, but rather than consider trimming the existing regulatory burden, the administration is ready to add to it.

This includes potential new Tier 3 gasoline sulfur and vehicle standards.

Given that the Tier 2 standards promulgated under President Clinton and implemented under President Bush reduced gasoline sulfur by 90 percent and vehicle emissions by up to 95 percent, I am concerned that further ratcheting down of these standards will amount to all pain and no gain.

I am also concerned about the impacts of EPA's global warming regulatory agenda on the price of motor fuels.

This includes upcoming New Source Performance Standards as well as other actions addressing greenhouse gases from refineries.

The "Gasoline Regulations Act" requires a multiagency study of the cumulative effects of several listed actions on fuel prices and jobs.

It also prevents the agency from finalizing three such measures until after the study is completed. It's a look-before-you-regulate approach that makes good sense no matter what the price of gasoline is.

Both of these bills have a commonsense approach with bipartisan support. Although these bills will not solve rising gas prices in the short-term, they go a long away in helping to hold down and even reduce prices in the long-term. I look forward to working constructively with my colleagues on these two measures. Thank you.

[The information follows:]

[DISCUSSION DRAFT]

MARCH 23, 2012

112TH CONGRESS
2D SESSION

H. R. _____

To provide for the development of a plan to increase oil and gas exploration, development, and production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in response to a drawdown of petroleum reserves from the Strategic Petroleum Reserve.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To provide for the development of a plan to increase oil and gas exploration, development, and production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in response to a drawdown of petroleum reserves from the Strategic Petroleum Reserve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategic Energy Production Act of 2012".

SEC. 2. PLAN FOR INCREASING DOMESTIC OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION FROM FEDERAL LANDS IN RESPONSE TO STRATEGIC PETROLEUM RESERVE DRAWDOWN.

Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(k) PLAN.—

"(1) CONTENTS.—

"(A) IN GENERAL.—Not later than 180 days after the date on which the Secretary executes, in accordance with the provisions of this section, the first drawdown after the date of enactment of this subsection of petroleum products in the Reserve, regardless of whether the drawdown is made by sale, exchange, or loan, the Secretary shall develop a plan to increase the percentage of Federal lands (including submerged lands of the Outer Continental Shelf) under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense

leased for oil and gas exploration, development, and production. The percentage of the total amount of the Federal lands described in the preceding sentence by which the plan developed under this paragraph will increase leasing for oil and gas exploration, development, and production shall be the same as the percentage of petroleum in the Strategic Petroleum Reserve that was drawn down.

"(B) REQUIREMENTS.—The plan developed under this paragraph shall—

"(i) be consistent with a national energy policy to meet the present and future energy needs of the Nation consistent with economic goals; and

"(ii) promote the interests of consumers through the provision of an adequate and reliable supply of domestic transportation fuels at the lowest reasonable cost.

"(C) ENERGY INFORMATION.—The Secretary shall base the determination of the present and future energy needs of the Nation, for purposes of subparagraph (B)(i), on infor-

mation from the Energy Information Administration.

"(2) LIMITATION.—The plan developed under paragraph (1) shall not provide for oil and gas exploration, development, and production leasing of a total of more than 10 percent of the Federal lands described in paragraph (1)(A).

"(3) CONSULTATION.—The Secretary shall develop the plan required by paragraph (1) in consultation with the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Defense. Additionally, in developing the plan, the Secretary shall consult with the American Association of Petroleum Geologists and other State, environmentalist, and oil and gas industry stakeholders to determine the most geologically promising lands for production of oil and natural gas liquids.

"(4) COMPLIANCE WITH REQUIREMENTS.—Each Federal agency described in paragraph (1)(A) shall comply with any requirements established by the Secretary pursuant to the plan.

"(5) EXCLUSIONS.—The lands referred to in paragraph (1)(A) shall not include lands managed under the National Park System or the National Wilderness Preservation System.".

[DISCUSSION DRAFT]

112TH CONGRESS
2D SESSION

H. R. _____

To require analyses of the cumulative impacts of certain rules and actions of the Environmental Protection Agency that impact gasoline and diesel fuel prices, jobs, and the economy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To require analyses of the cumulative impacts of certain rules and actions of the Environmental Protection Agency that impact gasoline and diesel fuel prices, jobs, and the economy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gasoline Regulations Act of 2012".

SEC. 2. TRANSPORTATION FUELS REGULATORY COMMITTEE.

(a) ESTABLISHMENT.—The President shall establish a committee to be known as the Transportation Fuels Regulatory Committee (in this Act referred to as the "Committee") to analyze and report on the cumulative impacts of certain rules and actions of the Environmental Protection Agency on gasoline and diesel fuel prices, in accordance with sections 3 and 4.

(b) MEMBERS.—The Committee shall be composed of the following officials (or their designees):

(1) The Secretary of Energy, who shall serve as the Chair of the Committee.

(2) The Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration.

(3) The Secretary of Commerce, acting through the Chief Economist and the Under Secretary for International Trade.

(4) The Secretary of Labor, acting through the Commissioner of the Bureau of Labor Statistics.

(5) The Secretary of the Treasury, acting through the Deputy Assistant Secretary for Environment and Energy of the Department of the Treasury.

(6) The Administrator of the Environmental Protection Agency.

(7) The Chairman of the United States International Trade Commission, acting through the Director of the Office of Economics.

(8) The Administrator of the Energy Information Administration.

(c) CONSULTATION BY CHAIR.—In carrying out the functions of the Chair of the Committee, the Chair shall consult with the other members of the Committee.

(d) TERMINATION.—The Committee shall terminate 60 days after submitting its final report pursuant to section 4(c).

SEC. 3. ANALYSES.

(a) SCOPE.—The Committee shall conduct analyses, for each of the calendar years 2016 and 2020, of the cumulative impact of all covered rules, in combination with covered actions.

(b) CONTENTS.—The Committee shall include in each analysis conducted under this section the following:

(1) Estimates of the cumulative impacts of the covered rules and covered actions with regard to—

(A) any resulting change in the national, State, or regional price of gasoline or diesel fuel;

(B) required capital investments and projected costs for operation and maintenance of new equipment required to be installed;

(C) global economic competitiveness of the United States and any loss of domestic refining capacity;

(D) other cumulative costs and cumulative benefits, including evaluation through a general equilibrium model approach; and

(E) national, State, and regional employment, including impacts associated with increased gasoline or diesel fuel prices and facility closures.

(2) Discussion of key uncertainties and assumptions associated with each estimate under paragraph (1).

(3) A sensitivity analysis reflecting alternative assumptions with respect to the aggregate demand for gasoline or diesel fuel.

(4) Discussion, and where feasible an assessment, of the cumulative impact of the covered rules and covered actions on—

(A) consumers;

(B) small businesses;

(C) regional economies;

(D) State, local, and tribal governments;

(E) low-income communities;

(F) public health; and

(G) local and industry-specific labor markets,

as well as key uncertainties associated with each topic listed in subparagraphs (A) through (G).

(c) METHODS.—In conducting analyses under this section, the Committee shall use the best available methods, consistent with guidance from the Office of Information and Regulatory Affairs and the Office of Management and Budget Circular A–4.

(d) DATA.—In conducting analyses under this section, the Committee is not required to create data or to use data that is not readily accessible.

(e) COVERED RULES.—In this section, the term "covered rule" means the following rules (and includes any successor or substantially similar rules):

(1) "Control of Air Pollution From New Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards", as described in the Unified Agenda of Federal Regulatory and Deregulatory Actions under Regulatory Identification Number 2060–AQ86.

(2) Any rule proposed after March 15, 2012, establishing or revising a standard of performance or

emission standard under section 111 or 112 of the Clean Air Act (42 U.S.C. 7411, 7412) that is applicable to petroleum refineries.

(3) Any rule proposed after March 15, 2012, for implementation of the Renewable Fuel Program under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)).

(4) "National Ambient Air Quality Standards for Ozone", published at 73 Federal Register 16436 (March 27, 2008); "Reconsideration of the 2008 Ozone Primary and Secondary National Ambient Air Quality Standards", as described in the Unified Agenda of Federal Regulatory and Deregulatory Actions under Regulatory Identification Number 2060–AP98; and any subsequent rule revising or supplementing the national ambient air quality standards for ozone under section 109 of the Clean Air Act (42 U.S.C. 7409).

(f) COVERED ACTIONS.—In this section, the term "covered action" means any action, to the extent such action affects facilities involved in the production, transportation, or distribution of gasoline or diesel fuel, taken on or after January 1, 2009, by the Administrator of the Environmental Protection Agency, a State, a local government, or a permitting agency as a result of the application

of part C of title I (relating to prevention of significant deterioration of air quality), or title V (relating to permitting), of the Clean Air Act (42 U.S.C. 7401 et seq.), to an air pollutant that is identified as a greenhouse gas in the rule entitled "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act" published at 74 Federal Register 66496 (December 15, 2009).

SEC. 4. REPORTS; PUBLIC COMMENT.

(a) PRELIMINARY REPORT.—Not later than 90 days after the date of enactment of this Act, the Committee shall make public and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a preliminary report containing the results of the analyses conducted under section 3.

(b) PUBLIC COMMENT PERIOD.—The Committee shall accept public comments regarding the preliminary report submitted under subsection (a) for a period of 60 days after such submission.

(c) FINAL REPORT.—Not later than 60 days after the close of the public comment period under subsection (b), the Committee shall submit to Congress a final report containing the analyses conducted under section 3, includ-

ing any revisions to such analyses made as a result of public comments, and a response to such comments.

SEC. 5. NO FINAL ACTION ON CERTAIN RULES.

The Administrator of the Environmental Protection Agency shall not finalize any of the following rules until a date (to be determined by the Administrator) that is at least 6 months after the day on which the Committee submits the final report under section 4(c):

(1) "Control of Air Pollution From New Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards", as described in the Unified Agenda of Federal Regulatory and Deregulatory Actions under Regulatory Identification Number 2060–AQ86, and any successor or substantially similar rule.

(2) Any rule proposed after March 15, 2012, establishing or revising a standard of performance or emission standard under section 111 or 112 of the Clean Air Act (42 U.S.C. 7411, 7412) that is applicable to petroleum refineries.

(3) Any rule revising or supplementing the national ambient air quality standards for ozone under section 109 of the Clean Air Act (42 U.S.C. 7409).

SEC. 6. CONSIDERATION OF FEASIBILITY AND COST IN REVISING OR SUPPLEMENTING NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE.

In revising or supplementing any national primary or secondary ambient air quality standards for ozone under section 109 of the Clean Air Act (42 U.S.C. 7409), the Administrator of the Environmental Protection Agency shall take into consideration feasibility and cost.

Mr. WHITFIELD. And at this time I would like to recognize the gentleman from Illinois, Mr. Rush, for a 5-minute opening statement.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. I want to thank you, Mr. Chairman.

Mr. Chairman, we are here today, holding yet another hearing on high gas prices, much like we have done numerous times in the past and will continue to do many more times in the future unless we make up our minds to fundamentally change our dependence on oil.

Mr. Chairman, I support President Obama's All of the Above energy approach, which encompasses increased oil and gas production here in the U.S., additional conservation, and energy efficiency measures, as well as a move towards cleaner and renewable sources of energy.

These gas price hearings may play well in the media and may make it appear as though Congress is actually busy doing something to address rising fuel prices. But the fact of the matter is that there is nothing that Congress or the administration can do to address the way to reduce gas prices in the immediate future.

We all know, Mr. Chairman, that fuel prices are set by global supply and demand, and as long as we continue to rely so heavily on oil, especially for powering our vehicles, then we will continue to be at the mercy of OPEC and surging fuel prices driven by the insatiable demand for oil led by the emergence of India and China.

Mr. Chairman, while attacking EPA regulations and shouting bumper sticker slogans such as, "Drill, baby, drill," may be enough to fire up a small percentage of the American public. Those simplistic solutions do nothing to really address the issue before us and the issue before the American people.

We must strategically wean ourselves away from oil, from our oil reliance, especially in the transportation sector. That is the only way we can ever steer clear of fluctuating gasoline prices that are set on the global market. And neither of the bills before us today will do anything to get at the heart of the problem. Surprise. Surprise.

Republicans in Congress are once, again, attacking the EPA and blaming the Clean Air Act as the cause for all of the problems we face in our Nation today, and now that also includes rising gasoline prices. In fact, the draft legislation before us seems to directly contradict the Supreme Court's unanimous 2001, ruling that cost could not be considered in establishing standards, whose primary objective is to protect America's children, America's families, and the public health of all Americans.

And despite the howls and despite the protests of the Tea Party faithful, most Americans do not blame the EPA for high gas prices but rather blame major oil companies who made $137 billion in profits last year and that they have more to do with the recent wild increases in gasoline prices. Don't blame the EPA. Blame the oil companies.

Maybe this stems from the fact that for every additional penny that the average American pays at the pump, big oil profits go up

another $2 million. In light of this fact, Mr. Chairman, I would submit along with my March 15 letter requesting a hearing on speculation in the oil market, this subcommittee should also look into the impact that rising gasoline prices have on big oil profits as compared to the pocketbooks of ordinary American families.

At least then, Mr. Chairman, at that hearing we would be actually looking into the practices that the American people really do believe are behind the rising fuel prices.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. WHITFIELD. Thank you, Mr. Rush. At this time I recognize the gentleman from Colorado, Mr. Gardner, who is the author of our Strategic Energy Production Act of 2012, for 5 minutes.

OPENING STATEMENT OF HON. CORY GARDNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. GARDNER. Thank you, Mr. Chairman, and thank you for holding this hearing today.

Our country runs on abundant affordable energy. It is the energy that fuels our factories, our farms, and ultimately drives our economy forward. Each of us here today understands that rising gas prices are impeding the growth of our economy. Without lower gas prices, families, businesses will spend more and more of their income filling up with a tank of gas instead of investing into our economy.

So I don't think it is an overstatement to say that the country's economic recovery is at risk if we continue with the status quo, which brings me to the subject at hand: Why we need to develop energy on Federal lands and why the Strategic Petroleum Reserve, or "SPRO", should not be drawn down when there are many longer-term, more lasting ways to address the problem of higher gas prices.

Mr. Chairman, many in this administration and beyond have suggested that tapping the "SPRO" was the way to bring down prices. While this may be politically expedient during an election year, no one can argue with the fact that it is a one-time, short-term political fix to an enduring problem. The "SPRO" is intended to be used during times of severe energy disruptions like shutdowns or major natural disasters, and I think we can all agree that fortunately we don't find ourselves having to deal with either of those situations today.

What we are experiencing, however, is extraordinarily high gas prices, and we need real solutions in order to bring them down. What baffles me is that the Federal Government has resources to alleviate the problem, but it refuses to use them. While production on the whole is up, production on Federal lands is down. In fact, only 3 percent of all public land is now leased for oil and gas production. The vast amounts of oil that we are unable to access are lying fallow until we allow energy production, energy production companies to develop them.

The Strategic Energy Production Act in front of us today provides that if the President decides to draw down oil from the SPR, a plan must be in place to increase leases on Federal lands. It is as simple as that. If there is a supply shortage severe enough to

warrant tapping our reserves, then we should do all we can to address it. Why not make more lands available for production or streamline procedures by which we can access Federal land of production? Why address this problem with a short-term fix when we all know it is a long-term problem?

We should address this problem with a good policy, not quick-fix politics. It is time we take some proactive steps in promoting domestic energy production and stop playing politics with an issue as serious as this.

Thank you, Mr. Chairman, and I yield the balance of my time to Mr. Barton.

OPENING STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BARTON. Thank you, Congressman. I want to associate myself with what you just said, and I also want to associate myself with what Chairman Whitfield just said about the recent issuance of regulations regarding emissions of coal-fired power plants. Chairman Whitfield couldn't be more right in his concern about that.

Today is the 18th hearing in a day about America's energy policy. I understand that because of jurisdictional issues the Energy and Commerce Committee can't be involved in every legislative issue regarding energy, but I would like to put before the committee for its consideration a plan that I think would address the high gasoline prices over time.

I think the first thing that we would have to do is reform Federal land permitting issues. When it takes the Texas Railroad Commission days to issue a permit and it takes the various Federal agencies years, that is a problem, and it is not that Texas is too fast. It is that the Federal Government drags its feet. The Obama administration has shown repeatedly that they really do not want, in spite of the rhetoric, to encourage domestic oil and gas production anywhere in America on Federal lands. We need to take a look at those permitting practices, and I think legislatively address them.

As Chairman Whitfield and Mr. Gardner just pointed out, we also need to look at the various environmental regulations and how they impact the energy production and energy use. Chairman Whitfield's draft bill is a step in the right direction. It may not be the end all, be all, but at least it is an attempt to look at some of those negative regulatory impacts.

Something that really hasn't been mentioned but needs to be is we need to encourage the use of more natural gas for transportation uses. There is absolutely no reason when natural gas is $2.30 mcf and oil is over $100 a barrel that we can't find a way to use more natural gas for transportation issues.

Finally, we need to encourage the use of new technologies for oil and gas production in America. Hydraulic fracturing, horizontal drilling, and CO2 injection into depleted fields all have potential to increase domestic energy production in the mid term. We are currently producing about eight million barrels of oil. We could, I think, produce double that amount in the next 10 years if we use those technologies in an environmentally-safe fashion.

There is absolutely no reason that America can't be energy independent, Mr. Chairman, if we want to and with your leadership and Chairman Upton's leadership and the leadership of the Republican Majority in the House, I think we can work at the rest of this Congress to begin to make that a potential reality in the near term.

With that I yield back.

Mr. WHITFIELD. Thank you. At this time I would recognize the gentleman from California, Mr. Waxman, for a 5-minute opening statement.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Mr. Chairman.

First of all, I want to welcome back to our committee a previous member and now again a member, Congressman Sarbanes from the State of Maryland. He was a very energetic member before, and I am sure he will be a real—make a real contribution now that he is back on our committee.

Now, if I could get the clock, I will start my opening statement.

I want to comment on the Chairman's statement about EPA's regulation. I want to congratulate EPA on the carbon power plant regulation. It is required by the law, and it is a good regulation, and I think it makes a lot of sense to protect our environment and for our economy.

Today we are examining the Republicans' response to gasoline prices. It is not an encouraging occasion for America's families who are faced with rising costs at the pump. The discussion drafts before us are not based in economic principle or sound policy. The policies haven't been publicly recommended to us by any knowledgeable or authoritative body. These bills are a package of half-baked ideas and giveaways to the oil industry.

They are based on false premises. These are not solutions to the real problems that Americans are struggling with. The Republicans' have two answers to gasoline prices at $4 a gallon. First, they propose drilling for more oil, yet every economist and oil market expert tells us that this will have no meaningful impact on oil prices which are set on a global market. Just look north to Canada. Canadians drill plenty of oil. They are energy independent, and they export to us, but this doesn't bring them lower prices. In fact, their gasoline prices are higher than ours due to taxes.

We will also hear today that Republicans can bring down gasoline prices by blocking the environmental regulations that protect Americans from dangerous air pollution. No one should be fooled by this argument. Under Republican leadership this body has become the most anti-environmental Congress in history. Since January, 2011, the House Republicans have voted more than 200 times to undermine the Clean Air Act, the Clean Water Act, and other environmental laws.

The premise of this legislation is, that we are going to have before us today, that high gas prices are caused by EPA regulations that haven't even been proposed. That is a complete fantasy. High gasoline prices are being caused by rising global demand, tensions in the Middle East, and tight supplies.

Americans want clean air. They don't want this committee to use high gasoline prices as an excuse for blocking regulations to reduce toxic emissions from oil refineries. Americans want cars that can go further on a gallon of gasoline. This is especially important when fuel prices are high. They don't want us to use high gasoline prices as a pretext for blocking clean fuel regulations that the auto companies need to make cleaner, more efficient vehicles. But that is exactly what the legislation does.

Even worse, one of the bills before us contains the Latta Amendment. That is a proposal that will cut the heart out of the Clean Air Act. It would overturn a unanimous 2001, Supreme Court case and repel a 40-year-old law that says the goal of the Clean Air Act is to achieve air quality that is safe for Americans to breathe.

On our first panel today we will hear from the administration on gas prices. There is no silver bullet to gasoline prices, but the actions Federal agencies are taking show that President Obama is charting the course for an economy that is built to last. EPA will tell us how they have adopted rules that save consumers money at the pump and decrease the Nation's oil demands. The Department of Interior will tell us how American oil production has increased to levels we haven't seen in recent memory, and the Department of Energy will explain how they are researching and developing the clean energy options that will lessen our dependence on oil and our vulnerability to price spikes going forward.

Instead of supporting these valuable initiatives, the Republican-controlled House has done everything possible to frustrate them. The House has passed partisan legislation to prevent the administration from cutting tailpipe emissions and making vehicles more efficient. The Republican budget could decimate the funding for clean energy, and House Republicans have even opposed efforts to penalize oil companies that sit on oil leases and refuse to produce any oil until prices go higher.

If you really cared about helping the country become more resilient to gasoline price volatility, you would be working with the administration instead of trying to block President Obama's every initiative.

But this hearing isn't about understanding and addressing gasoline prices. It is about using high gasoline prices as yet another rationale for advancing a profoundly anti-environmental agenda. Oil companies will surely benefit if these bills are enacted, and just as surely American families will suffer.

Mr. WHITFIELD. Thank you, Mr. Waxman.

That concludes opening statements, and so I would like to welcome the members of the first panel. We appreciate your being here very much, and we look forward to your testimony about these pieces of legislation as well as other issues.

We have with us this morning the Honorable Gina McCarthy, who is no stranger to the subcommittee. She is the Assistant Administrator of Air and Regulation at the United States Environmental Protection Agency. We have Mr. Christopher Smith, who is the Deputy Assistant Secretary for Oil and Natural Gas, Office of Fossil Energy, at the U.S. Department of Energy, and then we have Mr. Robert Abbey, who is the Director of Bureau of Land Management, U.S. Department of Interior.

And each one of you will be given 5 minutes to make an opening statement, and Ms. McCarthy, I will recognize you for 5 minutes to begin.

STATEMENTS OF REGINA MCCARTHY, ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION, ENVIRONMENTAL PROTECTION AGENCY; CHRISTOPHER SMITH, DEPUTY ASSISTANT SECRETARY FOR OIL AND NATURAL GAS, OFFICE OF FOSSIL ENERGY, DEPARTMENT OF ENERGY; AND ROBERT V. ABBEY, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

STATEMENT OF REGINA MCCARTHY

Ms. MCCARTHY. Thank you, Chairman Whitfield, Ranking Member Rush, members of the committee, I appreciate the opportunity to be back before you today.

Many families are hard hit by today's high gas prices. They deserve and they need real solutions. Unfortunately, the Gasoline Act of 2012 doesn't offer real solutions. It uses high gas prices as a reason to roll back fundamental public health protections that have nothing to do with high gas prices.

This bill would fundamentally change the cornerstone of the Clean Air Act, the requirement that EPA set air quality standards for smog at the level that the science advises us is necessary to protect public health.

Let me be clear. Programs to protect public health and to provide American families with scientifically-credible information about the health of the air in their communities are not the cause of high gas prices. In contrast, EPA's actions ensure that we travel farther on each gallon of gasoline than we—that we consume. In partnership with NHTSA, we have issued a set of proposed and final greenhouse gas pollution and fuel economy standards for model years 2011, to 2025, vehicles that will save approximately 12 billion barrels of oil over the life of those vehicles. That is equivalent to the past 6 years of imported oil from OPEC countries.

Consumers are already saving money at the pump as a result of these rules. In model year 2025, vehicles will save their owners $3,000 to $4,400 over the life of that vehicle. EPA and NHTSA's recent standards for trucks and buses will also save money. For example, a long-haul trucker would save a net of $73,000 over the life of a model year 2018, truck.

In addition, EPA's Renewable Fuels Program, when fully implemented, will displace about 7 percent of expected annual U.S. gasoline and diesel consumption in 2022.

The Gasoline Regulation Act of 2012 would not reduce gas prices, but it would waste government resources and taxpayer dollars. It would unnecessarily delay EPA rules that would protect public health in cost effective ways in order to allow a new interagency committee to conduct cumulative analysis of rules, only it is not clear how the committee would analyze rules that haven't even been proposed or how the public could comment on that analysis in an informed way. And this analysis is simply not needed to ensure that EPA analyzes the effects of our rules on gas prices. We do that already.

Most troubling, however, is the provision unrelated to gas prices. Section 6 would roll back one of the key public health protections in the Clean Air Act. It would fundamentally alter the way that EPA would set the National Ambient Air Quality Standard for ozone or smog.

For many people, including one out of every ten school-aged children, elevated ozone levels can make it harder to breathe. Ozone exacerbates the suffering of asthmatics, causing more frequent and severe asthma attacks.

So people with compromised health conditions like asthma have come to rely on EPA's Daily Air Quality Index to help them manage their lives. The elderly skip their morning walk on bad air days, and mothers keep their kids indoors when the air is not sufficiently protected for their children to breath. What will happen if this bill should pass, and we have to do what Section 6 tells us to do? We would no longer rely on the science to identify bad air days, and instead we would have to decide what level of smog is protective of public health based on what is cost effective and feasible to address.

Again, let me be clear. I am not saying that we should not take cost and feasibility into consideration when we determine the most appropriate actions to take to achieve health-based standards like smog. We do, but I am saying that we should not let our economists weigh in on what is and is not healthy air. That is the job of scientists and health experts, and I for one would like to keep it that way.

In conclusion, the draft bill would do nothing to address high gas prices, but it would delay significant cost effective health protections required under the Clean Air Act and undermine EPA's authority to protect public health and the environment by rolling back a fundamental Clean Air Act public health protections.

Lastly, Mr. Chairman, I heard your concerns about the recent announcement by EPA on carbon pollution standards for future power plants. I am more than happy to come and return at a time when you might have a hearing on that or to answer any questions you may have today.

[The prepared statement of Ms. McCarthy follows:]

Opening Statement of Regina McCarthy

Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency

Hearing On Gasoline Regulations Act of 2012
Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
March 28, 2012

Chairman Whitfield, Ranking Member Rush, and Members of the Committee, I appreciate the opportunity to appear before you today regarding the Gasoline Regulations Act of 2012.

I understand how hard hit many families are by today's high gas prices. They deserve and need real solutions. That is why President Obama has issued a plan for action on energy that includes an all-of-the-above energy strategy to reduce our dependence on oil, save businesses and consumers money, and position the United States as the global leader in clean energy.

Unfortunately, this legislation appears to use high gas prices as the reason to rollback fundamental public health protections that have nothing to do with gasoline prices. For instance, this bill would fundamentally change the cornerstone of the Clean Air Act – the requirement that EPA set air quality standards for smog at the level that is necessary to protect public health based on a vigorous review of the science and without consideration of costs. Let me be clear – programs to reduce smog and protect public health are not the cause of high fuel prices.

This legislation also delays – indefinitely – rules that EPA has not even proposed. In short, this legislation does not address the reasons for the recent increase in the price of gasoline, while rolling back core aspects of the Clean Air Act – which was passed on a bipartisan basis and signed by a Republican President. On the other hand, the Administration has taken specific steps to increase the supply of oil and EPA has taken

steps, in conjunction with our Federal partners, to ensure that we travel further on each gallon of gasoline that we consume.

Specifically, EPA, in concert with the National Highway and Traffic Safety Administration (NHTSA), is playing a significant role in that plan, establishing new fuel economy and greenhouse gas (GHG) standards that are making cars and trucks rolling off assembly lines today more efficient, saving American families and businesses money at the pump. EPA and NHTSA have issued a set of proposed and final greenhouse gas pollution and fuel economy standards for model year 2011-2025 vehicles that are estimated to save approximately 12 billion barrels of oil over the life of the vehicles, equivalent to the past 6 years of imported oil from OPEC countries.[1]

Current EPA Actions To Reduce the Amount Americans Spend on Gasoline

In the last few years, EPA has issued several regulations that will save consumers money at the pump and keep more of the money we spend on fuel in the United States. New car and light truck owners are already saving money at the pump as a result of EPA's and NHTSA's first ever joint standards to cut greenhouse gas pollution and increase the fuel efficiency of cars and light trucks for model years 2012-2016. Over the lifetime of MY 2012-2016 vehicles, the combined EPA and NHTSA standards are projected to reduce U.S. greenhouse gas emissions by about 960 million metric tons and save 1.8 billion barrels of oil,[2] more oil than we imported from OPEC countries last year.[3]

These standards will save consumers and small businesses money by reducing their gasoline usage. Consumers buying MY 2016 vehicles would have average net savings of $3,000 over the life of the vehicle – the $4,000 in projected fuel savings over the lifetime of the vehicle more than offset the projected $950 increase in the initial cost of a new MY 2016 vehicle. After only three years of use, U.S. consumers who purchase

[1] [1] EIA data on U.S. Imports by Country of Origin 3/19/2012 http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_EPP0_im0_mbbl_a.htm
[2] See 75 Fed. Reg. 25328 (May 7, 2010).
[3] EIA data on U.S. Imports by Country of Origin 3/19/2012 http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_EPP0_im0_mbbl_a.htm

MY 2012-2016 vehicles outright are projected to save enough in lower fuel costs to offset the increase in vehicle costs. U.S. consumers who use a 5-year loan to purchase a vehicle will also save. The projected monthly fuel savings exceed the projected increased loan payments necessary to cover the increased cost of the vehicle, which means that consumers start saving in their very first month of ownership. [4]

Even greater savings are in store for consumers in the future. On November 16, 2011, at the direction of the President, and with the support of auto manufacturers,[5] and the State of California, EPA and NHTSA issued their joint proposal to extend this National Program of greenhouse gas and fuel economy standards to MY 2017-2025 cars and light trucks. The proposal would require vehicle manufacturers to meet an estimated CO2 standard of 163 grams of CO2 per mile on an average fleet-wide basis in 2025, equivalent to 54.5 miles per gallon if all of those improvements are made with fuel economy-improving technologies. Over the lifetime of the MY 2017-2025 vehicles, the proposed standards would reduce greenhouse gas emissions by an estimated 2 billion metric tons and save 4 billion barrels of oil (above the billions of barrels in additional savings from the 2016 standards that carry into these model years as well). This is approximately the same amount of oil imported by the United States from all foreign sources last year alone.[6] Net lifetime savings for vehicle owners of a MY 2025 vehicle are estimated to be $3,000 - $4,400.

Further, starting with MY 2014, new medium and large truck and bus owners will also begin saving on fuel costs. In August, 2011, EPA and NHTSA announced the first ever joint greenhouse gas and fuel efficiency standards for trucks and buses. This program has support from the trucking industry, including engine and truck manufacturers, the American Trucking Association, the State of California, and leaders from the environmental community. In addition to improving energy and national security, this program will benefit consumers and businesses, reduce harmful air

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[4] See 75 Fed. Reg. 25519-25520 (May 7, 2010).
[5] The letters of support from these organizations can be found at www.epa.gov/otaq/climate/regulations.htm
[6] EIA data on U.S. Imports by Country of Origin 3/19/2012 http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_EPP0_im0_mbbl_a.htm

pollution, lower costs for transporting goods, and spur job growth and innovation in the clean energy technology sector.

The joint EPA and NHTSA standards are estimated to save about 530 million barrels of oil and reduce CO2 emissions by about 270 million metric tons over the life of MY 2014-2018 vehicles, providing $49 billion in net program benefits. The reduced fuel use will provide an estimated $50 billion in fuel savings to vehicle owners, or $42 billion in net savings when considering technology costs.[7] A long haul trucker is projected to save a net of $73,000 over the life of a MY 2018 truck. Using technologies commercially available today, the majority of vehicles will see a payback period of about one year; others will see payback periods of up to two years.

EPA's renewable fuels program, established by Congress, helps keep money spent on fuel in the United States. On March 26, 2010, EPA completed regulations to implement the RFS program required under EISA in 2007. We estimate the RFS program, when fully implemented in 2022, would displace about 13.6 billion gallons of petroleum-based gasoline and diesel fuel, which represents about 7 percent of expected annual gasoline and diesel consumption in 2022. We also estimate that the fully implemented program would decrease oil import expenditures by $41.5 billion dollars, result in additional energy security benefits of $2.6 billion, and reduce greenhouse gas emissions by 138 million metric tons of CO2 equivalent per year.

The Gasoline Regulations Act of 2012 and Gas Prices

The Gas Regulations Act of 2012 would not reduce gas prices, but it would waste government resources and taxpayer dollars. It would indefinitely delay a handful of EPA rules. It would require a new, interagency committee comprised of seven different agencies to conduct extensive analyses of the health protective standards that are being held hostage. As an initial matter, it is unclear how the new committee would analyze rules that have not yet been proposed, or how the public could comment on that analysis

[7] See 76 Fed. Reg. 57106 (September 15, 2011).

in an informed way. This additional process is not needed to ensure that EPA analyzes the effect of these rules on gas production costs – this is already part of the economic analysis that EPA already does for rules applicable to refiners or fuel. This additional process is not needed to ensure that other agencies have the opportunity to comment on EPA's analysis – they already do so under the inter-agency review process conducted by OMB. This additional process is not needed to ensure that the public can review and comment on EPA's gas price analysis – this is already required as part of the required notice-and-comment rulemaking process.

I am severely constrained in explaining the benefits of the fuel and refinery rules that would be blocked by this draft bill because we have not yet proposed them. I can, however, discuss why EPA is developing them. The so-called Tier 3 vehicle and fuel standards, which would reduce pollution from cars and light trucks, would respond to the critical need to improve air quality in those areas not in attainment of the health-based standard. These standards would reduce motor vehicle emissions and help state and local areas attain and maintain the existing health-based air quality standards in a cost-effective and timely way. The only fuel requirement we are considering for Tier 3 is one that would lower the amount of sulfur in gasoline, which is necessary to operate the pollution control equipment to achieve new Tier 3 vehicle standards. To be clear, the Agency is not considering addressing issues associated with Reid vapor pressure in any Tier 3 proposal that eventually is released. As with lead, sulfur in fuel impairs the functioning of emission control equipment. By focusing only on sulfur requirements in Tier 3, we estimate the impact on fuel costs to be less than one penny per gallon when the program goes into effect in 2017 or later, an estimate that is consistent with a recent study by Mathpro.[8] The auto industry has told us that lower sulfur in gasoline will help them reduce the cost of fuel-saving technologies that will improve fuel efficiency, which saves consumers money on gasoline.[9]

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[8] Refinery Economics of a National Low Sulfur, Low RVP Gasoline Standard, MathPro, Inc. (October 25, 2011), available at http://www.theicct.org

[10] National Health Statistics Reports, "Asthma Prevalence, Health Care Use, and Mortality: United States, 2005-2009," January 12, 2011. http://www.cdc.gov/nchs/data/nhsr/nhsr032.pdf

The petroleum refinery sector rules respond to serious health concerns for millions of Americans. Refineries emit toxic air pollutants, and they are often located in densely populated areas, which risks exposing those populations to air toxic emissions. Common sense, cost-effective emission reductions can be achieved with no refinery closures and no change in the price of gasoline. In addition to proposing measures to improve public health, EPA is planning rule revisions in response to petitions from industry stakeholders who have asked us to make changes that will create clarity and consistency for industry.

The Tier 3 and refinery standards that would be blocked by this draft bill would help states achieve the health-based national ambient air quality standards that are in effect now. National rules such as these often allow states to avoid adopting local and state-wide control measures that may place a greater compliance burden and be more costly to small businesses and individual citizens in the non-attainment areas than the national regulations.

The Gasoline Regulations Act of 2012 and the Ozone NAAQS

The most significant provision of the Gasoline Regulations Act of 2012, section 6, does not affect rules regulating fuels or gas prices. Instead, section 6 would roll back one of the key public health protections in the Clean Air Act. It would fundamentally alter the way that the EPA would set the National Ambient Air Quality Standards (NAAQS) for ozone (also known as smog). Since 1970, the Clean Air Act has required EPA to set the ambient standards for six air pollutants - including ozone- at the level requisite to protect public health with an adequate margin of safety based on a rigorous review of the science, without consideration of cost. Section 6 would change that for ozone.

Although we have dramatically reduced ozone pollution (also known as smog) over the last 40 years, it still causes serious health problems for millions of Americans. Decades of scientific research link ozone to asthma attacks, respiratory illnesses, and the risk of premature death. Breathing air containing ozone can reduce lung function, inflame airways and increase respiratory symptoms. Ozone exposure is associated with

increased susceptibility to respiratory infections, and aggravation of asthma and other lung diseases, leading to increased medication use, doctor visits, and emergency department visits and hospital admissions.

Elevated ozone levels can make it harder for healthy adults to breathe, but it poses particular problems for people with asthma because it aggravates asthma attacks. One of every ten school-aged children is affected with asthma and approximately 13 million people have reported having an asthma attack in the past year. Unfortunately, asthma prevalence in the U.S. has increased by 1.2 percent annually from 2001 to 2009, affecting 24.6 million Americans in 2009.[10] It is important to provide accurate information about what levels of ozone pose risks for asthmatics, the elderly, children and other people who are susceptible to adverse health effects from ozone because people adjust their behavior on high ozone days to avoid asthma attacks and other problems.

The ozone national ambient air quality standards program has two distinct components. The first component is setting the standard, which establishes the health-based goal for the program. The second component is comprised of state, tribal and federal programs that require reductions in emissions of ozone-forming pollution. Cost and feasibility are taken into account in the second part of the program, but not in setting the standard.

Section 6 would change this and require that cost and feasibility be taken into account when EPA sets the standard which is used to tell American families whether their communities' air is healthy. It is important to have an air quality standard that conveys accurate information about the health effects of ozone levels in the community. People who are sensitive to ozone pollution, such as children, the elderly and asthmatics, need to know whether they should adjust their activity levels. A health-based standard based on science enables us to provide this information to communities. The Clean Air Act has protected public health for over 40 years by ensuring that the standards are based on

[10] National Health Statistics Reports, "Asthma Prevalence, Health Care Use, and Mortality: United States, 2005-2009," January 12, 2011. http://www.cdc.gov/nchs/data/nhsr/nhsr032.pdf

science, and EPA strongly supports maintaining the health-based approach to standard-setting, while considering cost and feasibility during the implementation stage.

The Clean Air Act

The national ambient air quality standards are the cornerstone of the Clean Air Act and have played a major role in its 40-year success story. For more than 40 years, the Clean Air Act has fostered steady progress in reducing the threats posed by pollution and allowing us all to breathe easier. In 2010, programs implemented pursuant to the Clean Air Act Amendments of 1990 are estimated to have reduced premature mortality risks equivalent to saving over 160,000 lives; spared Americans more than 100,000 hospital visits; and prevented millions of cases of respiratory problems, including bronchitis and asthma attacks.[11] They also enhanced productivity by preventing 13 million lost workdays; and kept kids healthy and in school, avoiding 3.2 million lost school days due to respiratory illness and other diseases caused or exacerbated by air pollution.[12]

However, few of the emission control standards that gave us these huge gains in public health were uncontroversial at the time they were developed and promulgated. Most major rules have been adopted amidst claims that that they would be bad for the economy and bad for employment. In contrast to doomsday predictions, history has shown, again and again, that we can clean up pollution, create jobs, and grow our economy all at the same time. Over that same 40 years since the Act was passed, the Gross Domestic Product of the United States grew by more than 200 percent.[13] It is misleading to say that enforcement of the Clean Air Act is bad for the economy and employment. It isn't. Families should never have to choose between a job and healthy air.

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[11] USEPA (2011). The Benefits and Costs of the Clean Air Act from 1990 to 2020. Final Report. Prepared by the USEPA Office of Air and Radiation. February 2011. Table 5-6. This study is the third in a series of studies originally mandated by Congress in the Clean Air Act Amendments of 1990. It received extensive peer review and input from the Advisory Council on Clean Air Compliance Analysis, an independent panel of distinguished economists, scientists and public health experts.

[12] Ibid.

[13] Bureau of Economic Analysis, National Economic Accounts, "Table 1.1.5. Gross Domestic Product," http://bea.gov/national/index.htm#gdp

Some may find it surprising that the Clean Air Act also has been a good economic investment for our country. A study led by Harvard economist Dale Jorgenson found that implementing the Clean Air Act has boosted US economy because the health benefits of the Clean Air Act lead to a lower demand for health care and a healthier, more productive workforce. According to that study, by 2030 the Clean Air Act will have prevented 3.3 million lost work days and avoided the cost of 20,000 hospitalizations every year.[14] Another study that examined four regulated industries (pulp and paper, refining, iron and steel, and plastic) concluded that, "We find that increased environmental spending generally does not cause a significant change in employment."[15]

The EPA's updated public health safeguards under the Clean Air Act will encourage investments in labor-intensive upgrades that can help put current unemployed or under-employed Americans back to work. Environmental spending creates jobs in engineering, manufacturing, construction, materials, operation, and maintenance. For example, EPA vehicle emissions standards directly sparked the development and application of a huge range of automotive technologies that are now found throughout the global automobile market. The vehicle emissions control industry employs approximately 65,000 Americans with domestic annual sales of $26 billion.[16] Likewise, in 2008, the United States' environmental technologies and services industry of 1.7 million workers generated approximately $300 billion in revenues and led to exports of $44 billion of goods and services,[17] larger than exports of sectors such as plastics and

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[14] Dale W. Jorgenson Associates (2002a). *An Economic Analysis of the Benefits and Costs of the Clean Air Act 1970-1990. Revised Report of Results and Findings.* Prepared for EPA. http://yosemite.epa.gov/ee/epa/eerm.nsf/vwAN/EE-0565-01.pdf/$file/EE-0565-01.pdf

[15] Morgenstern, R. D., W. A. Pizer, and J. S. Shih. 2002. "Jobs versus the Environment: An Industry-Level Perspective." *Journal of Environmental Economics and Management* 43(3):412-436.

[16] Manufacturers of Emissions Control Technology (http://www.meca.org/cs/root/organization_info/who_we_are)

[17] DOC International Trade Administration. "Environmental Technologies Industries: FY2010 Industry Assessment. http://web.ita.doc.gov/ete/eteinfo.nsf/068f3801d047f26e85256883006ffa54/4878b7e2fc08ac6d85256883006c452c/$FILE/Full%20Environmental%20Industries%20Assessment%202010.pdf (accessed February 8, 2011)

rubber products.[18] The size of the world market for environmental goods and services is comparable to the aerospace and pharmaceutical industries and presents important opportunities for U.S. industry.[19]

Jobs also come from building and installing pollution control equipment. For example, the U.S. boilermaker workforce grew by approximately 35 percent, or 6,700 boilermakers, between 1999 and 2001 during the installation of controls to comply with EPA's regional nitrogen oxide reduction program.[20] Over the past seven years, the Institute for Clean Air Companies (ICAC) estimates that implementation of just one rule – the Clean Air Interstate Rule Phase 1 – resulted in 200,000 jobs in the air pollution control industry.[21]

Conclusion

The Gasoline Regulations Act of 2012 will do nothing to address today's high gas prices. It is not needed to ensure that EPA takes gas prices into account when regulating fuel or refinery emissions or that other agencies or the public can bring their expertise to bear on EPA's analysis – those things already happen under the normal rulemaking process.

By changing the way that EPA would set the ozone ambient air quality standard, the Gasoline Regulations Act of 2012 rolls back one of the key public health protections in the Clean Air Act.

Again, I appreciate the opportunity to provide the Agency's views as you develop this legislation. I look forward to your questions.

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[18] U.S. Census Bureau, Censtats Database, International Trade Data--NAICS, http://censtats.census.gov/naic3_6/naics3_6.shtml (accessed September 6, 2011)

[19] Network of Heads of the European Environment Protection Agencies, 2005. "The Contribution of Good Environmental Regulation to Competitiveness." http://www.eea.europa.eu/about-us/documents/prague_statement/prague_statement-en.pdf (accessed February 8, 2011).

[20] International Brotherhood of Boilermakers, *Boilermaker Labor Analysis and Installation Timing*, March 2005, EPA Docket OAR-2003-0053 (docket of the Clean Air Interstate Rule).

[21] November 3, 2010 letter from David C. Foerter, Executive Director of the Institute of Clean Air Companies, to Senator Thomas R. Carper (http://www.icac.com/files/public/ICAC_Carper_Response_110310.pdf (accessed February 8, 2011).

Mr. WHITFIELD. Thank you.

At this time I recognize Mr. Smith for a 5-minute opening statement.

STATEMENT OF CHRISTOPHER SMITH

Mr. SMITH. Thank you very much, Mr. Chairman. Chairman Whitfield, Ranking Member Rush, and members of the subcommittee, thank you for the opportunity to discuss the Department of Energy's perspective on these two legislative proposals.

We share the concern of members regarding the burden that rising gasoline prices place on U.S. families and businesses. For decades, volatile energy prices have threatened the economic security for millions of American households, hitting consumers hard and straining budgets for millions of American families.

The American people understand that there is no silver bullet for meeting our energy needs and bringing down the price of gasoline in the short term. In the long term, though, we can work to protect America from the ups and downs of the global market by pursuing a sustained, all-of-the-above approach to American energy that will reduce oil imports, save families and businesses money at the pump, and position the United States as the leader in clean energy alternatives.

As part of this comprehensive energy strategy, the United States is expanding oil production here at home, increasing the efficiency of the vehicles that we drive, and investing in advanced technologies that will diversify our transportation sector.

The Obama administration is committed to expanding the safe and responsible production of America's energy resources, which is one reason why the U.S. production has increased each year the President has been in office. Domestic oil production is currently at an 8-year high, and there are more oil rigs operating now in the United States than in the rest of the world combined.

At the same time, America's dependence on foreign oil has been going down over the last several years. In 2010, imported oil accounted for less than 50 percent of the oil consumed here in the United States for the first time in 13 years.

But exploration alone will not solve our energy challenges. That is why the administration is working to improve vehicle efficiency. The administration has announced historic standards that will nearly double the fuel economy of the vehicles we drive, saving families approximately $1.7 trillion at the pump and cutting oil consumption by 12 billion barrels. The administration is also investing in advanced vehicles and fuels, including targeted investments in electric and natural gas vehicles, advanced combustion engines, biofuels and fuel blends, and advanced and lighter materials for vehicles that will help reduce the amount of gas American families will need to buy.

Domestic natural gas also has the potential as an alternative transportation fuel, especially for long-haul trucks. At the Department of Energy we are investing in research into natural gas-powered vehicles to further reduce our dependence on imported oil.

The Department of Energy has serious concerns about the legislation being discussed today. These bills would do little or nothing to address the current situation facing American families and busi-

nesses, and in fact, could potentially make the tools that we do have available to protect U.S. energy security less effective.

Drawdown to the Strategic Petroleum Reserve have been used in the past to offset the loss of crude oil supplies and mitigate the impact to the Nation of oil supply interruptions and the resulting price spikes. The Strategic Energy Production Act of 2012, if enacted, will make it more difficult for the Strategic Petroleum Reserve to achieve its mission to respond promptly to supply interruptions with emergency crude oil.

Draw downs are already a complicated process, involving coordination with a variety of local, regional, and international entities. Imposing a requirement to coordinate future increases in leased Federal lands as a consequence of releasing crude oil from the Strategic Petroleum Reserve would require a significant expansion of the resources at the Department of Energy and other departments and would have a negative impact on the decision-making process to employ the Strategic Petroleum Reserve, which should be based solely on protecting the United States from the consequences of severe supply interruptions.

Similarly, the other piece of legislation being discussed today, the discussion draft of the Gas Regulations Act of 2012, would require a large investment of resources from the Department of Energy and other Federal agencies participating on the committee and would be exceedingly difficult, if not impossible, to accomplish in the timeframe mandated in the legislation.

The administration shares this committee's concern about the burden caused by high gasoline prices. However, we do not believe that the bills we are discussing today would help achieve the intended purpose. Creating more bureaucratic structures and complicating the government's decision-making processes are not the means of best responding to spikes in gasoline prices and reducing our dependence on imported oil. We remain committed to working with Congress on ways to constructively address our Nation's energy challenges.

Thank you, again, for having me here today, and I look forward to addressing any questions that the committee might have.

[The prepared statement of Mr. Smith follows:]

Statement of
Chris Smith
Deputy Assistant Secretary for Oil and Natural Gas
Office of Fossil Energy
U.S. Department of Energy

Before the

Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives

March 28, 2012

Chairman Whitfield, Ranking Member Rush, and Members of the subcommittee, thank you for the opportunity to discuss the Department of Energy's (DOE) perspective on two legislative proposals — the discussion drafts of the "Strategic Energy Production Act of 2012" and the "Gasoline Regulations Act of 2012."

We share the concern of the Members regarding the burden that the rising price of gasoline places on U.S. families and businesses. For decades, volatile energy prices have threatened economic security for millions of American households. That volatility has hit consumers hard straining budgets for millions of American families.

It is important to remember that the price we pay at the pump is closely tied to the global price of oil. The American people understand that there is no silver bullet for meeting our energy needs and bringing down the price of gasoline in the short-term. In the long-term, though, we can work to protect Americans from the ups and downs of the global market by pursuing a sustained,

all-of-the-above approach to American energy. Through the President's all-of-the-above energy strategy, we are working to reduce oil imports, save families and businesses money at the pump, expand the choices available to American consumers, and position the U.S. as the global leader in clean energy alternatives.

As part of this comprehensive energy strategy, the United States is expanding oil production here at home, increasing the efficiency of the vehicles we drive, and investing in advanced technologies that will diversify our transportation sector.

The Obama Administration is committed to expanding the safe and responsible production of America's energy resources, which is one reason why U.S. oil production has increased each year the President has been in office. Domestic oil production is currently at an eight year high, and there are more oil rigs operating now in the United States than in the rest of the world combined.

At the same time, America's dependence on foreign oil has been going down over the last several years: in 2010, imported oil accounted for less than 50 percent of the oil consumed here for the first time in 13 years. Millions of additional acres have been opened over the past three years for oil and gas exploration. As part of the effort to expand responsible domestic production and consistent with the President's direction, the Administration's Proposed Outer Continental Shelf Oil and Gas Leasing Program makes more than 75 percent of undiscovered technically recoverable oil and gas resources estimated in Federal offshore areas available for exploration and development, and in January, the President announced a 38 million acre lease

sale in the Gulf of Mexico scheduled for this summer. This sale alone could produce up to one billion additional barrels of oil over the life of the leases.

This increase in domestic oil production brings direct benefits to our economy: it supports jobs, it helps our balance of trade, and it spurs new economic development. But oil exploration alone will not solve our energy challenges. That is why the Administration is working to improve the efficiency of the vehicles we drive. The Administration has announced fuel economy standards that will nearly double the fuel economy of the vehicles we drive in 2025 compared to model year 2010 vehicles. Over the lifetimes of the new vehicles sold through model year 2025, American families are estimated to save approximately $1.7 trillion at the pump, and cut oil consumption by 12 billion barrels. The Administration is also investing in advanced vehicles and fuels, including targeted investments in electric drive and natural gas vehicles, advanced combustion engines, biofuels and fuel blends, and advanced and lighter materials for vehicles that will help reduce the amount of gas American families will need to buy.

The energy story isn't just about oil and transportation. We are also taking steps to ensure the prudent development of our Nation's natural gas resources. Domestic natural gas production is at an all-time high, and the lease sales in the Gulf of Mexico which the President recently announced could add an additional four trillion cubic feet of supply over the life of the leases. The increases in natural gas production primarily feed the domestic market, and, in contrast to gasoline, have resulted in significant reductions in the cost of natural gas in the U.S. over the last few years. This results in savings to most Americans through their electricity bills, even if they do not use natural gas at home. As with transportation, the Department is undertaking important

research and development to improve the efficiency of our buildings and industries, the other large segments of domestic energy consumption.

The biggest shift in natural gas production has occurred onshore, where technical advances in shale gas development have dramatically increased our estimates of recoverable natural gas resources here in the United States. We are now sitting on nearly a hundred years of natural gas supply, which will provide American families and businesses with new choices and opportunities. At DOE we are working hand-in-hand with the Environmental Protection Agency (EPA) and the United States Geological Survey to sponsor research to ensure that this American resource is prudently produced in a safe and environmentally sustainable way. Domestic natural gas has potential as an alternative transportation fuel, especially for long-haul trucks, and at DOE we are investing in research into natural gas-powered vehicles to further reduce our dependence on imported oil.

The Department of Energy has serious concerns about the legislation being discussed today. These bills would do little or nothing to address the current situation. In fact, in the case of a severe energy supply disruption, the discussion draft of the "Strategic Energy Production Act of 2012" would complicate use of the Strategic Petroleum Reserve (SPR), potentially reducing its effectiveness in providing strategic and economic security for the Nation. The bill also would require a large investment of resources at DOE and would complicate routine management of the SPR.

The discussion draft of the "Strategic Energy Production Act of 2012" would amend the Energy Policy and Conservation Act of 1975 to require the Secretary of Energy to develop a plan to increase domestic oil and gas production in lands and waters that are under the jurisdictions of the Departments of Agriculture, Interior and Defense within 180 days of a release from the SPR. The plan must account for an increase in the amount of land leased for oil and gas exploration of the same percentage as the drawdown of the SPR, and must be done in consultation with those Departments.

This bill, if enacted, will make it more difficult for the SPR to achieve its mission to respond *promptly* to supply interruptions with emergency crude oil. Enactment of this legislation may impede the use of the SPR to respond in a timely fashion to local and regional emergencies and encumber the ability of the United States to meet its obligations to the International Energy Agency. It would also limit DOE's ability to manage the SPR on a day to day basis, in which releases occasionally are necessary for the routine maintenance and operation of the reserve.

Drawdowns of the SPR have been used to mitigate the impacts to the Nation of supply interruptions and the resulting price spikes, which could have been far more severe without emergency supplies from the SPR. Most recently, the SPR was used to offset the loss of crude oil production from the U.S. Gulf Coast following Hurricane Katrina in 2005, Hurricane Gustav in 2008, and the impact of the Libyan uprising on global oil supplies in 2011.

Drawdowns are already complicated procedures, involving coordination with a variety of local, regional and international entities. Imposing a requirement to coordinate future increases in

leased federal lands as a consequence of releasing crude oil from the SPR will have a negative impact on the decision-making process to employ the SPR, which should be based solely on protecting the U.S. from the consequences of severe supply interruptions, and could lead to an inability to respond quickly to such threats. As the leasing of federal lands is only partly in the control of the U.S. Government, this bill would make releases from the SPR dependent in part on the actions of potential lessees.

This legislation would require an expansion of resources at DOE and other Departments. In order for the Secretary to create the plans required by the legislation, DOE would need to continuously evaluate and monitor the regulations and policies that apply to federal land leasing in each of the other three federal agencies. As the leasing arrangements vary among departments, this could be a burdensome undertaking, and may have the consequence of injecting DOE budget and resource considerations into the SPR release decision-making process.

The discussion draft of the "Gas Regulations Act of 2012" would establish a Transportation Fuels Regulatory Committee composed of representatives from executive branch agencies, and be chaired by the Secretary of Energy. Other participants would be the Department of Transportation; the Department of Commerce; the Department of Labor; the Department of the Treasury; the Energy Information Administration (EIA); the United States International Trade Commission; and the Environmental Protection Agency. The legislation would require the Committee to analyze and report on the cumulative impacts of selected EPA rules and actions on petroleum refineries and transportation fuels that may affect gasoline and diesel fuel prices. A draft analysis would be required within 90 days of the bill's passage, with a 60-day public

comment period, and a 60-day response to public comment period. The legislation also specifies that EPA cannot finalize rules on Tier 3 vehicle emission performance standards, certain emission or performance standards applicable to petroleum refineries, or the national ambient air quality standards for ozone for at least six months after the Committee submits the final report. Finally, the EPA would be required to consider feasibility and cost in revising or supplementing the national primary or secondary ambient air quality standards for ozone under section 109 of the Clean Air Act.

This legislation would require a large investment of resources from DOE and the other federal agencies participating on the Committee, and would be exceedingly difficult — if not impossible — to accomplish in the timeframe mandated in the legislation. While the legislation states that the "Committee is not required to create data or to use data that is not readily accessible," many of the requested analyses would in fact depend on data that does not exist or is not readily accessible. Also the legislation calls for DOE to chair the committee; however, much of the expertise in conducting such analyses of regulatory actions lies outside DOE. Such a review is largely redundant with the interagency consultation process regarding regulatory impact analyses already conducted for each of these regulations. Finally, it is inappropriate to include the Administrator of EIA on such a committee as it risks compromising EIA's ability to provide statistical analysis independent from the policymaking process.

The Administration shares this Committee's concern about the burden caused by high gasoline prices, and is working to reduce oil imports, save families and businesses money at the pump, expand the choices available to American consumers, and position the U.S. as the global leader

in clean energy alternatives. However, we do not believe that the bills we are discussing today would help achieve the intended purpose. Creating more bureaucratic structures and complicating the government's decision-making processes are not the means of best responding to spikes in gasoline prices and reducing our dependence on imported oil. We remain committed to working with Congress on ways to constructively address our Nation's energy challenges.

Thank you again for having me here today, and I look forward to your questions.

Mr. WHITFIELD. Thank you, Mr. Smith, and Mr. Abbey, you are recognized for a 5-minute opening statement.

STATEMENT OF ROBERT V. ABBEY

Mr. ABBEY. Thank you, Mr. Chairman and members of the subcommittee, for the opportunity to appear before you this morning to discuss the Department of Interior's role in the administration's plan for our domestic energy future.

We understand that this subcommittee is considering a discussion draft of legislation which would link oil and gas leasing on Federal lands and waters to the authorization by the President of a drawdown of the Strategic Petroleum Reserve. And while we defer to the Energy Department, which is the lead agency on this issue, for a position on the legislation, the planning and leasing processes currently in place at the Department of the Interior are already resulting in a broad energy strategy that is reducing our dependence on foreign oil.

We know the prices at the pump are high and that there is no simple solution to bring down that price. This is why the President and the Department of Interior has continued to promote and implement an all-of-the-above approach to American energy.

The BLM is responsible for managing our National System of Public Lands, which are located primarily in 12 western States, including Alaska. The BLM administers over 245 million surface acres, more than any other Federal agency, and approximately 700 million acres of onshore subsurface mineral estate throughout the Nation.

The Bureau of Land Management plays an important role in advancing domestic energy production on these America's public lands. Domestic oil and gas production from the public lands remain critical to our energy supply.

We are also expanding development of renewable energy sources like wind and solar and geothermal production that will help diversify our Nation's energy portfolio. Onshore there are now over 38 million acres under lease for oil and gas, but less than one-third, about 32 percent of that acreage is currently in production.

Companies also continue to hold thousands of approved but unused permits to drill on our public lands. Expanding safe and responsible oil and gas production from the Outer Continental Shelf is a key component of the President's Blueprint for a secure energy future and will help us continue to reduce our dependence on foreign oil and create jobs here at home.

The Bureau of Ocean Energy Management or BOEM manages the Nation's offshore energy and mineral resources in a balanced way that promotes efficient and environmentally responsible oil and gas and renewable energy development and a commitment to rigorous, science-based environmental review and study.

The Bureau of Ocean Energy Management's Five-Year Oil and Gas Leasing Program is a key element in managing our offshore oil and gas assets. Under these statutory requirements, the Department prepares a long-range program that specifies the size, timing, and location of areas to be considered for Federal offshore oil and gas leasing.

The proposed Outer Continental Shelf Oil and Gas Leasing Program for 2012 through 2017 includes substantial acreage for lease in regions with known potential for oil and gas development. This plan makes areas containing more than 75 percent of undiscovered technically-recoverable oil and gas resources in the Federal OCS available for exploration and development.

BOEM has also established a regulatory framework for renewable energy leasing and development. Recently, BOEM has taken a number of important steps towards additional lease sales in fiscal year 2013, and beyond, including developing a commercial lease form, conducting an analysis to determine auction formats, and completing an environmental assessment to support leasing in wind energy areas off four Mid-Atlantic States.

Recognizing that America's oil supplies are limited, we must develop our domestic resources safely, responsibly, and efficiently, while at the same time taking steps that will ultimately lessen our reliance on oil. We are also taking steps both onshore and offshore to encourage industry to develop the thousands of leases and permits that they already have but that are currently sitting idle.

The Obama administration and the Department of the Interior are working to secure our energy future by ensuring that our domestic oil and gas resources are safely developed and that the potential for clean energy development on our public lands and water is realized.

Thank you, Mr. Chairman, for the opportunity to appear before this subcommittee.

[The prepared statement of Mr. Abbey follows:]

Statement of
Robert V. Abbey, Director
Bureau of Land Management
U.S. Department of the Interior

Before the
Subcommittee on Energy and Power,
House Committee on Energy and Commerce

March 28, 2012

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Department of the Interior's role in the Administration's plan for our domestic energy future. I am Bob Abbey, Director of the Bureau of Land Management.

We understand that the Subcommittee is considering a discussion draft of legislation intended to link oil and gas leasing on federal lands to the authorization by the President of a drawdown of the Strategic Petroleum Reserve. While we defer to the Department of Energy, which is the lead agency on this issue, for a position on the legislation, we would note that the planning and leasing processes currently in place at the Department of the Interior are already contributing to a broad energy strategy that is protecting consumers and reducing our dependence on foreign oil.

On the Right Path to Energy Security

We know that prices at the pump, which are driven largely by increased oil prices in the global market, are too high. But we also know that there is no silver bullet to bring down that price. This is why the President, and the Department, has continued to promote and implement an all-of-the-above approach to American energy.

The President's call for this sustained, all-of-the-above approach to our domestic energy policies means not only increasing the efficiency of our cars and trucks, but also investing in advanced technologies and alternative fuels and energy generation, as well as expanding the responsible production of our domestic oil and gas supplies. The Department of the Interior is doing its part to respond to the President's call.

To encourage energy production, the Administration is taking a series of common sense steps as

part of the Administration's overall *Blueprint for a Secure Energy Future*, a broad effort to reduce our dependence on foreign oil by producing more oil and natural gas at home and using cleaner, alternative fuels and improving our energy efficiency.

Specifically with regard to domestic hydrocarbon production, the President has made clear that he wants us to continue to produce more oil and natural gas here at home. And while this alone is not a solution to high gas prices, it will help reduce domestic reliance on foreign oil.

Before discussing the specifics of the Department's onshore and offshore energy programs, let's first look at the facts:

- In 2011, American oil production reached the highest level in nearly a decade and natural gas production reached an all-time high;
- When President Obama took office, America imported 11 million barrels of oil a day. Since that time, our dependence on foreign oil has gone down every year, with a cut in net imports of ten percent – or a million barrels a day – in the last year alone. This is in response to booming domestic oil and gas production, more efficient cars and trucks, and increased use of non-petroleum liquid fuels;
- The fuel efficiency of the cars and trucks we drive will nearly double – to 55 miles per gallon – by 2025, thanks to new fuel economy standards announced last year, standards that will also reduce oil imports;
- Total federal oil production (offshore and onshore) has increased by 13 percent during the first three years of the Obama Administration combined, compared with the last three years of the previous administration. Each of the three years from 2009-2011 was higher than any year from 2006-2008; and
- Total natural gas production from public lands *(onshore)* has increased by 6 percent during the first three years of the Obama Administration combined, compared with the last three years of the previous administration.
- It's also important for companies to use the leases they currently have. Onshore, there are now over 38 million acres under lease for oil and gas, but less than one third –about 32 percent – of that acreage is currently in production. Companies also continue to hold thousands of approved but unused permits to drill on our public lands. Offshore, in 2011

industry had leased nearly 38 million acres, but operators were actively exploring or developing on just over 10 million of those acres.

While production levels fluctuate from year-to-year based on market conditions and industry decisions, a recently published Energy Information Administration report confirms that this Administration has overseen an overall expansion of production on federal lands and waters as part of the nationwide rise in production levels even when taking into account the impact of the *Deepwater Horizon* oil spill in the Gulf of Mexico in 2010.

Energy Development at the Department of the Interior

The Department and its bureaus play an important role in advancing domestic energy production. America's public lands and federal waters provide resources that are critical to the Nation's energy security. At the Department we are expanding development of cleaner sources of energy, including renewables like wind, solar, and geothermal, as well as natural gas on public lands. The Administration is also working to facilitate the development of advanced coal technologies. But domestic oil and gas production remain critical to our energy supply and to reducing our dependence on foreign oil.

Their development enhances our energy security and fuels our Nation's economy. Recognizing that America's oil supplies are limited, we must develop our domestic resources safely, responsibly, and efficiently, while at the same time taking steps that will ultimately lessen our reliance on oil. We are also taking steps both onshore and offshore to encourage industry to develop the thousands of leases and permits it already has but that are currently sitting idle.

Energy Development on Public Lands

The BLM is responsible for managing our National System of Public Lands, which are located primarily in 12 western States, including Alaska. The BLM administers over 245 million surface acres, more than any other federal agency, and approximately 700 million acres of onshore subsurface mineral estate throughout the Nation.

The BLM's management of public land resources and protection of public land values results in extraordinary economic benefits to local communities and to the Nation, helping to contribute more than $120 billion annually to the national economy and supporting more than 550,000

American full and part-time jobs according to the Department of the Interior Economic Contributions report of June 21, 2011. Energy and mineral resources generate the highest revenue values of any uses of the public lands from royalties, rents, bonuses, sales and fees.

These benefits are not only economic, but also contribute substantially to America's energy security. During calendar year 2011, the BLM held 32 onshore oil and gas lease sales, offering 1,755 parcels of land covering nearly 4.4 million acres. Nearly three-quarters (1,296) of those parcels were leased, generating about $256 million in revenue. Onshore mineral leasing revenues are estimated to be $4.4 billion in 2013. The 2011 lease sale revenues are 20 percent higher than those in calendar year 2010, following a strong year in which leasing reform helped to lower protests and increase revenue from onshore oil and gas lease sales on public lands. This strong record is expected to continue in 2012 with over 30 planned lease sales.

Industry nominations are the first step in BLM's leasing process. After evaluating the parcels, BLM may offer them at auction, and successful bidders can then apply to drill for oil and gas. The BLM has recently seen a 50 percent jump in industry proposals to lease for oil and gas exploration, with oil and gas companies nominating nearly 4.5 million acres of public minerals for leasing in 2011. This is up from just under 3 million acres in the previous year.

Interior is moving aggressively to put the President's energy strategy, *Blueprint for a Secure Energy Future*, into action and expand secure energy supplies for the Nation – a strategy that includes an all-of-the-above approach, including the responsible development of both conventional and renewable energy sources on the public lands. The President's *Blueprint* recognizes the economic potential of renewable energy development. The economic benefits could be particularly significant in America's remote and rural places near public lands. The Department's 2010 estimates identified nearly $5.5 billion in economic benefits associated with renewable energy activities, a growing economic sector that supports high paying jobs.

Under Secretary Salazar, BLM has approved permits for 29 commercial-scale renewable energy projects on public lands or the transmission associated with them since 2009. This includes 16 solar, five wind, and eight geothermal projects. Together, these projects represent more than 6,600 megawatts (MW) and 12,500 jobs, and when built will power about 1.3 million homes. In addition, the Department has identified more than 3,000 miles of transmission lines for expedited

review. Enhanced development of wind power is a key component of our Nation's energy strategy for the future. There are currently 437 MW of installed wind power capacity on BLM-managed public lands, but there are 20 million acres of public lands with wind potential. Additionally, nearly half of U.S. geothermal energy production capacity is from Federal leases. The Administration's 2013 budget reflects a goal of permitting a total of 11,000 MW of clean renewable energy by the end of 2013.

Energy Development on the OCS

Expanding safe and responsible oil and gas production from the OCS is a key component of our comprehensive energy *Blueprint*, and will help us continue to reduce our dependence on foreign oil and create jobs here at home.

Following the *Deepwater Horizon* explosion and oil spill, the Administration has been implementing the most aggressive and comprehensive reforms to offshore oil and gas regulation in U.S. history. The Minerals Management Service was restructured and the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement now work closely with each other to encourage the safe and responsible exploration and development of domestic oil, gas, and renewable energy resources on the Outer Continental Shelf, activities that support job growth and healthy local economies.

BOEM manages the Nation's offshore energy and mineral resources in a balanced way that promotes efficient and environmentally responsible energy development through oil and gas leasing, renewable energy development, and a commitment to rigorous, science-based environmental review and study. The bureau's functions include offshore leasing, resource evaluation, review and administration of oil and gas exploration and development plans, renewable energy development, National Environmental Policy Act analysis, and environmental studies. BSEE provides safety and environmental oversight of offshore oil and gas operations on the OCS, and this includes issuing drilling permits and managing the orderly development of the Nation's offshore oil and gas resources. BSEE continues to expand its capacity to maintain a robust and fair inspection and compliance program.

Production from these leases generates billions of dollars in revenue for the federal treasury and state governments while supporting thousands of jobs. In calendar year 2010, OCS leases

produced 589.5 million barrels of oil and 2,300 billion cubic feet of natural gas, accounting for about 30 percent of domestic oil production and 10 percent of domestic natural gas production.

Required by the Outer Continental Shelf Lands Act, the Five-Year Oil and Gas Leasing Program is a key element in managing our offshore oil and gas assets. Under these statutory requirements, the Department prepares a long-range program that specifies the size, timing, and location of areas to be considered for federal offshore oil and gas leasing. BOEM cannot schedule a lease sale except under the process prescribed under OCSLA and other statues. BOEM works in consultation with stakeholders, including federal and state agencies, local communities, federally-recognized tribes, private industry, and the public, to develop a program that not only offers access to those areas of the OCS with the most promising potential for development of oil and natural gas resources, but also does so in an environmentally responsible manner.

Western Gulf of Mexico Lease Sale 218, held on December 14, 2011, was the last Western Gulf sale scheduled under the current Five-Year Program, and the first sale conducted after completion of a supplemental environmental impact statement that considered the effects of the *Deepwater Horizon* oil spill. That sale attracted $337,688,341 in high bids on 191 tracts comprising over a million acres. The sum of all bids received was over $700 million, and the total area made available for leasing was more than 21 million acres. BOEM has scheduled Consolidated Central GOM Sale 216/222, the final sale in the current Program, for June 20, 2012. That sale will make available nearly 38 million acres in an area of the Gulf estimated to contain close to 31 billion barrels of oil and 134 trillion cubic feet of natural gas that are undiscovered and technically recoverable.

While working to implement these sales, BOEM is also finalizing the next Five-Year Program, which will be in effect later this year. Issued in November 2011, the Proposed OCS Oil and Gas Leasing Program for 2012-2017 includes substantial acreage for lease in regions with known potential for oil and gas development, making areas containing more than 75 percent of undiscovered technically recoverable oil and gas resources estimated in federal OCS available for exploration and development. It also advances an innovative, regionally-tailored approach to offshore oil and gas leasing that will take into account the particular resource potential,

environmental and social concerns, and infrastructure condition of each planning area. In sum, this Proposed Program both promotes responsible and expanded OCS development and is informed by lessons learned from the *Deepwater Horizon* tragedy and the reforms that we have implemented to make offshore drilling safer and more environmentally responsible.

The majority of lease sales are scheduled for areas in the Gulf of Mexico, where resource potential and interest is greatest and where infrastructure is most mature. But it also includes frontier areas, such as the Arctic, where we must proceed cautiously, safely, and based on the best science available. In Alaska and off its coast, the Proposed Program recommends that the current inventory of already-leased areas in the Arctic should be expanded only after additional evaluations have been completed, and in a manner that accounts for the Arctic's unique environmental resources and the social, cultural, and subsistence needs of Native Alaskan communities. BOEM is moving forward with planning under the Proposed Program, as reflected by the announcement this weekend that BOEM is inviting industry to express its interest in potential oil and gas leasing in the Cook Inlet Planning Area offshore of Southcentral Alaska. While the proposed leasing program makes available the areas with the richest resources, BOEM is also evaluating the oil and gas potential of areas where drilling has not occurred in the recent past. We are moving forward with a strategy to evaluate the potential for oil and gas exploration off of the mid- and south- Atlantic. Although it is premature to schedule lease sales in those areas, BOEM will soon issue a draft Environmental Impact Statement relating to seismic activity in the mid- and south-Atlantic so that current, accurate data can be collected about the oil and gas potential in the region. BOEM is also actively engaged with the Department of Defense about the military's needs in these areas, interests which of course we all respect, as well as developing information about other potentially conflicting uses. These are all threshold issues that must be better understood to inform decisions about whether – and if so where – any oil and gas activity in the Atlantic should occur in the future, and BOEM is pursuing a strategy to develop that understanding.

BOEM has also established the regulatory framework for renewable energy leasing and development. On April 19, 2011, Secretary Salazar announced the approval of the Cape Wind Associates' Construction and Operations Plan (COP). The Secretary signed the Cape Wind lease in 2010, and it is the first offshore commercial wind lease in the United States. Recently, BOEM

has taken a number of important steps towards additional lease sales in FY 2013 and beyond, including: developing a commercial lease form and conducting an analysis to determine auction formats; completing an environmental assessment to support leasing in wind energy areas off of four Mid-Atlantic states; and issuing Calls for Information and Nominations to gauge industry interest in areas including offshore Rhode Island, Massachusetts, New Jersey, Maryland and Virginia. BOEM also is moving forward with the review for a potential Mid-Atlantic Wind Energy Transmission Line, which would enable up to 7,000 megawatts of wind turbine capacity to be delivered to the electric grid.

Focusing on Production

As mentioned above, while the Department defers to the Department of Energy as to a position on this legislation, as discussed in this statement the planning and leasing processes currently being carried out by the Department's bureaus are contributing to a broad energy strategy that is protecting consumers and reducing our dependence on foreign oil.

Moreover, while we continue to offer additional new acreage for oil and gas development, industry now has more leased acreage than it is putting to productive use. Last year BLM held 32 onshore oil and gas lease sales, offering 1,755 parcels of land covering almost 4.4 million acres. Of those, 1,296 parcels, or nearly three-quarters of those offered, were purchased, generating about $256 million in revenue for the public. In 2010, the Department offered nearly 37 million acres on the OCS for lease, but industry leased just 2.4 million acres. And in 2011, a lease sale for the Western Gulf of Mexico made available more than 21 million acres, equal to an area the size of South Carolina, and just over 1 million acres received bids from industry.

As indicated above, there are now over 38 million onshore acres under lease for oil and gas, but less than one third, about 32 percent, of that acreage is in production, and companies continue to hold thousands of approved but unused permits to drill on our public lands. And in 2011 industry had almost 38 million offshore acres leased but operators were actively exploring or developing on just over 10 million of those acres.

For this reason, we do not support efforts to legislate prescribed percentage increases in federal acreage under oil and gas lease. While the Department can, and does, offer significant acreage in

its lease sales, it is industry that makes the final decision whether or not to purchase a lease on any particular tract and, subsequently, whether and when to develop the resources on such lease.

In addition to offering significant acreage from which to lease, both onshore and offshore, the Department is also providing greater incentives for its lessees to make production from their leases a priority. These resources are important in creating jobs and reducing our dependence on fossil fuels and oil imports, and ensuring the diligent development of lands under lease should be a priority for Congress as well.

For example, offshore, BOEM lease terms now include a range of lease terms and drilling requirements to ensure that taxpayers receive fair value and encourage operators to undertake diligent development. These include recent changes to raise the minimum bid level from $37.50 per acre to $100 per acre in deepwater to focus industry on areas it intends to develop; imposing shortened primary lease terms, with the opportunity for additional years on a lease if the operator shows diligence in drilling under the lease; and providing for escalating rental rates to encourage faster exploration and development of leases.

And to encourage development both onshore and on the OCS, the Administration has proposed a per-acre fee on each nonproducing lease issued after enactment of the proposal. The $4-per-acre fee on non-producing leases would provide a financial incentive for oil and gas companies to either put their leases into production or relinquish them so that tracts can be re-leased and developed by new parties.

Conclusion

The Obama Administration and the Department of the Interior are working to secure our energy future by ensuring that our domestic oil and gas resources are safely and responsibly developed and that the potential for clean energy development on our public lands and waters is realized. We have taken a balanced approach, and it is an approach that works.

Again, thank you Mr. Chairman for giving me the opportunity to discuss the Department of the Interior's efforts to reduce our dependence on foreign oil and create jobs through the development of these important energy resources. I am happy to answer any questions that you or the Committee may have.

Mr. WHITFIELD. Thank you. We appreciate the opening statement of all of you, and Ms. McCarthy, I know you all have got a lot going on over at EPA, but we have a policy of asking that opening statements be given to us 48 hours before the hearing, and I know a lot of people are surprised at this, but we actually read these opening statements.

And yesterday we received yours at 6:25 last night, which is certainly way beneath the 48 hours, so I would hope that in the future if you could get to us 48 hours in advance, we would really appreciate that.

Ms. MCCARTHY. Mr. Chairman, I will do my best in the future. We had some difficulty because we didn't receive the draft legislation until last week, so but we will do our best in the future.

Mr. WHITFIELD. OK, and second of all, recently you gave a speech to the Coal Club here in Washington, DC, and in that speech you had indicated that there were hundreds of utility plants that could meet the—existing utility plants that could meet the Utility MACT regulations, and you indicated that you would make that list available to anyone that wanted it. And our staff has asked your staff to provide that list to us, and we have not received it yet, and since the implication was that you all certainly had that list, could you provide that to us by the end of the day today?

Ms. MCCARTHY. Mr. Chairman, I did attend the meeting that you identified. I did misspeak. There are dozens of facilities that actually achieve the existing standards, and we are more than happy to respond to the request.

Mr. WHITFIELD. Well, could we have it by the end of the day?

Ms. MCCARTHY. I don't know if I can accommodate that, but I will get back to you by——

Mr. WHITFIELD. Well, because your staff had indicated to us that we needed to write a letter, so I am just going to ask you verbally if you could get it to us by the end of today, if possible, the 12, the list of 12 or so plants that meet that existing——

Ms. MCCARTHY. It is dozens. It is in the sixties, but I will do my best——

Mr. WHITFIELD. All right.

Ms. MCCARTHY [continuing]. To get that to you.

Mr. WHITFIELD. Thank you very much. Now, I would like to ask all of you yes or no, has the EPA or Department of Energy or Department of Interior taken a position on these two pieces of legislation? Mr. Smith, have you all taken a position on them?

Mr. SMITH. Yes. Thank you for the question, Mr. Chairman.

So on the first piece of legislation that has to do with the petroleum reserve, as I mentioned in my opening statement we do have some concerns about the idea of tying the operational capability of one of the few quick response tools that the Federal Government actually does have to respond to emergency supply disruptions that could cause high price spikes for American consumers and taking that and tying it to a regulatory, legal legislative process by which we are trying to estimate new quantities of oil and gas to be produced on public lands in cooperation with private oil companies. So we have some concerns about that.

Mr. WHITFIELD. So you are not opposed to it at this point, but you have some concerns that we might be able to address with you?

Mr. SMITH. Well, I would say categorically that we think that the direction of taking a strategic asset that is dedicated by statute to protecting national security by protecting against price spikes that might be caused by supply interruptions and tying it to a legislative process, that is something that we would be categorically against.

Mr. WHITFIELD. Now, Mr. Abbey, what about your Department?

Mr. ABBEY. Mr. Chairman, we have deferred to the Department of Energy to take a position on that particular legislative proposal, but I will say this, that we believe such a proposal is unnecessary.

Mr. WHITFIELD. And, Ms. McCarthy, has EPA taken a formal position?

Ms. MCCARTHY. No, sir, we don't.

Mr. WHITFIELD. OK. Well, one of the things that you had mentioned in your comment was that this legislation appears to use high gas prices as the reason to roll back fundamental public health protections, and I would just say and clarify that this legislation on the gas issue does not roll back anything. It simply defers three rules for at least 6 months after the issuance of a final report, the Tier 3 Motor Vehicle Emission and Fuel Standards, the new Source Performance Standards for Petroleum Refineries, which is not out there yet, and the new Ozone Standards, which is not out there.

So it is not the intent of this legislation to roll back any existing health protections.

Ms. MCCARTHY. I appreciate that, Mr. Chairman. The roll back comment was related to the requirement that we change from being advised by the science in terms of what is protective as a standard for smog as opposed to taking into consideration cost and feasibility, which would significantly change the fundamental premise of the Clean Air Act.

Mr. WHITFIELD. Well, I would just say that the President himself wrote a letter to Administrator Jackson in which he directed that you minimize regulatory costs and burdens. He wrote that letter September 2, 2011.

My time has expired. At this time I recognize the gentlelady from Florida, Ms. Castor, for—Mr. Sarbanes was here first I was told. Recognize the gentleman from Maryland, Mr. Sarbanes, for 5 minutes.

Mr. SARBANES. Thank you, Mr. Chairman. I am glad to be back here on the committee. Appreciate the opportunity.

Mr. WHITFIELD. Let me just say we welcome you back, and thank you.

Mr. SARBANES. Thanks very much.

Ms. McCarthy, I wanted to address most of my questions to you. First of all, thanks for being here. Thanks for your testimony, and thanks for the work that you do at the EPA. I thought since I was returning to the committee that I ought to get back to core principles and understanding the mission of the EPA, so I looked again this morning at the mission of the EPA, which is to protect human health and the environment. And the first purpose listed for the EPA is its purpose is that all Americans, to ensure that all Americans are protected from significant risks to human health and the environment where they live, learn, and work.

And I commend you for bringing out attention to Section 6 of the act that is under review here today because I agree with you that it creates a dangerous, it is a dangerous development to start putting aside the concerns about the science in developing the standards, and as I understand it from what you have said, that is your concern. It is not that we throw economics completely out the window, but when it comes to developing the standards that you want to put forward that are designed to protect human health and the environment, you need to rely on the science first and foremost, and your fear based on this provision is that that would be trumped by these other concerns. So I thank you for bring that up.

I come from Maryland, and I am concerned about the fact that Maryland, I think, is one of the, well, Baltimore has been found to have one of the highest levels of smog on the east coast. Baltimore and Washington. That is the corridor I travel every day, so I am very, very interested in the potential of these Tier 3 Tailpipe Pollution Standards, which are coming along to address pollution in our area.

And what I would like you to do, if you could, and I understand that standards aren't developed yet, the regulations have not been issued, I am concerned about any effort to get in the way of the timeline for those because we have great expectations of what they can, how they can benefit Maryland and frankly the whole Chesapeake Bay watershed.

But if you could speak to the health benefits behind these new Tier 3 Tailpipe Pollution Standards in terms of reducing nitrogen, oxides, and what that means in terms of the public health, I would appreciate it very much.

Ms. MCCARTHY. Mr. Congressman, first let me congratulate Maryland for all the work they do. I know that we work with them very closely on issues of ozone. There are many rules that we have done that are attempting to address the interstate transport of ozone into Maryland where they are working very hard on Tier 3 in particular. The importance of Tier 3 is very large to States like yours and others that deal with smog, and it will produce vehicles that will significantly lower both VOCs and NOCs which are precursors of ozone. They will also provide significant net benefits related to lower sulfur in gasoline.

So while the rules haven't been proposed, our major concern here is that we would be having to wait for the completion of a report that may never come, and this rule, this new law would actually tell us that we had to wait for 6 years for the completion of a rule that will provide no further clear information to the public on our Tier 3 rule, and our rule hasn't even been proposed. It is not clear how it would be analyzed, and we want to move on and get it in front of the public and provide the benefits that the Clean Air Act intended, and it is a significant way for us to reduce ozone and to provide those public health protections.

Mr. SARBANES. I appreciate that, and I want to anticipate, you know, in the context of this hearing the criticism would be that those new tailpipe emission standards would significantly increase the cost of gasoline. In fact, the studies that I have available to me, I am looking at a very good article from the "Baltimore Sun," last November, suggests based on industry forecasts that you might in-

crease fuel costs by a half cent, potentially a half cent to a cent, and you are looking at, you know, all tolled maybe $143 million increased costs up to potentially $400.

You look at the benefits in terms of reduced healthcare costs because of reducing the pollution out there, and you are talking about—and this is reducing hospitalizations, sick days, and premature deaths, and you are looking at $234 million to $1.2 billion saved. So that is really something we should take into consideration. Thank you.

Mr. WHITFIELD. The gentleman's time has expired.

At this time I recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman.

Ms. McCarthy, yesterday the EPA put out the proposed regulations on new coal-fired power plants that allows the emission of CO2 to be, I think, 1,000 pounds per ton. Most coal-fired power plants, the best that—the average, I think, is about 1,700 pounds of CO2 per ton.

Where did 1,000 pounds per ton come from, and what is magic about it?

Ms. MCCARTHY. The standard is 1,000 pounds per megawatt hour.

Mr. BARTON. Per megawatt. I am sorry. You are right. Per megawatt hour.

Ms. MCCARTHY. And it is based on what we believe to be the best system of emission reduction is what is called on in the law. It is based on natural gas combined cycle, which is about 95 percent of the natural gas combined cycle units that have been built since 2005, actually achieve this 1,000 pound standard.

Mr. BARTON. But that is natural gas.

Ms. MCCARTHY. It is, but we also recognize that most new units are actually going to be natural gas. That is the trend we see because of the availability and cost.

Mr. BARTON. You understand that if you set the standard for coal at that range, you are not going to build a new coal-fired power plant.

Ms. MCCARTHY. We——

Mr. BARTON. You understand that?

Ms. MCCARTHY [continuing]. Identified a pathway for coal to achieve by providing flexibility to allow coal a 30-year averaging to achieve that standard, recognizing that carbon capture and storage, while it is available today, they may not want to put or design the facility——

Mr. BARTON. Well, it is too expensive.

Ms. MCCARTHY [continuing]. To have it today, but they could over a 30-year period and achieve——

Mr. BARTON. Carbon capture works in the laboratory, but when you scale it up to put it on a real power plant, it raises the cost by about 30 percent or at least it did the last time I looked at it. So what you have done is effectively say we are not going to use coal to generate electricity in the United States ever again.

Is the EPA and President Obama comfortable with that, that you are just wiping out half the generation capacity of America of electricity currently?

Ms. MCCARTHY. We believe that carbon capture and sequestration is actually being put on at full scale now. We believe that the capture rate, which is very modest for today's systems, can be achieved and allow this averaging to be a very successful approach to coal continuing to be developed.

And we recognize that over time the cost and effectiveness of that technology will likely improve dramatically. The 30-year horizon gives units 10 years to actually, before they need to install carbon capture and sequestration in order to make that standard within that 30-year period.

Mr. BARTON. I don't think it is a surprise to you that many of us don't share the optimism that you just expressed about the ability for technology to overcome that, and I wouldn't be surprised if you don't see some legislative attempts to correct the proposed regulation.

I want to ask Mr. Abbey about permitting reform on Federal lands. As I pointed out in my opening statement, in Texas the Railroad Commission on occasion will issue a new permit for an oil or gas well within a day, but it almost always never takes more than a week. I can't find a record of a Federal permit on Federal lands or the OCS being issued in—the average is 3 years. Some take as long as 7 years.

Do you agree that Federal permitting reform for oil and gas leases should be a priority to enact?

Mr. ABBEY. It is a priority for the Department of Interior to look at our existing processes and always determine where improvement could be achieved and efficiencies achieved so that we can move forward as expeditiously as possible to review the applications that come before us and make decisions on those applications.

Mr. BARTON. Do you have—what would be a good goal to shoot for? Do you think 90 days?

Mr. ABBEY. Well, again, it would be difficult to assign a goal to each application because they vary from complexity, by complexity, but let me just share with you——

Mr. BARTON. How about let us do it in less than a year?

Mr. ABBEY. Well, many of them are approved or decisions made within a year. For example, last year we received approximately 41 applications for permits to drill within the Bureau of Land Management. We made decisions. We issued approvals on over 4,200 applications for permits to drill because we ended up addressing some of the backlog that we had.

Mr. BARTON. So when industry says it is 3 to 7 years, they are just not telling the truth?

Mr. ABBEY. Some applications will require that much time because we go back and have to do an environmental impact statement, but many of the applications, most of the applications that we do receive for permits to drill are decided within probably anywhere between 90 days to a year.

Mr. BARTON. OK. My time has expired. I would like to ask Ms. McCarthy one final question.

Could you elaborate on Lisa Jackson, the Administrator, Ms. Jackson's announcement yesterday that the EPA had no plans to issue regulations for greenhouse gases for existing power plants? What is no plans? Is that the next week, the next year, the next

decade? Would you elaborate a little bit on her announcement on that issue?

Ms. MCCARTHY. I think her statement, Congressman, was very clear. We do not have plans to develop new source performance standards for existing——

Mr. BARTON. So I can state that for the rest of the Obama administration, Lisa Jackson and the EPA is not going to issue a regulation for existing power plants on greenhouse gases.

Ms. MCCARTHY. We just indicated that we have no plan.

Mr. BARTON. For the rest of the Obama administration?

Ms. MCCARTHY. Right now we have focused solely on what you have already proposed, which is getting comment on the new source standard, which is the premise for moving forward. We are looking forward to those comments, and we want to make sure that we get the new source performance standard right, that we protect existing facilities at this point, and should we move forward with existing in the future, that would be a standard that would be established through separate rulemaking.

Mr. SHIMKUS [presiding]. The gentleman's time——

Mr. BARTON. No plans is like President Clinton saying depends on what the gentleman——

Mr. SHIMKUS. The gentleman's time has expired.

The Chair now recognizes the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Mr. Chairman, I am glad to follow my colleague from Texas, and if I run over, could I get a couple minutes, too, although I am not a Chairman Emeritus as he is.

Mr. SHIMKUS. No.

Mr. GREEN. That was a quick response.

Ms. McCarthy, following my colleague from Texas, I appreciate what you did on the existing facilities because that was a big concern. Now, we may still have some discussion on how we can do secrets ratio intervenings on existing facilities, but my interest is obviously refining capacity, and it is my understanding the EPA has publicly stated or proposed the Tier 3 Sulfur Standards this March, which would mean they would need to be proposed this week.

When do you plan to propose those Tier 3 Sulfur Standards?

Ms. MCCARTHY. We don't have an exact timeline at this point, Congressman. We are actively looking at this issue. We want to assure that they are as cost effective as they can be. Right now we project that cost to be somewhere less than a penny. We recognize the challenges associated with the cost of gasoline, and we are going to be sensitive to that.

Mr. GREEN. OK, and since you don't have a timeline I know you agree that in using the same rationale that you have used on greenhouse gases for new permitting, the combination of these rules could put refiners in quite a predicament, and so I would hope that you are working with—I understand you are working with litigants and seeing what we can do because obviously everybody wants to do what is right, but we need to be able to capitalize it, particularly on refineries like I have. I have five of them that are very large, and they just don't, I mean, at any given time there

is a permit for something in the works there in East Harris Country. So I appreciate that.

Let me ask Mr. Smith, Mr. Smith, I have some concerns in the discussion draft that our colleague, Mr. Gardner, has with interfere with the efficient management operation of the Strategic Petroleum Preserve, maybe make it unusable, in fact. The proposal covers not just draw downs and sales but also exchange agreements. The authority entered in an exchange agreement with private companies has been used ten times, and these exchanges allow refiners to overcome unforeseen emergency disruptions in their crude oil supply.

In June of 2000 this authority was used because of a commercial dry dock collapsing in a shipping canal in Louisiana, blocking the primary route of the two refineries. If not for the exchange, these refineries would have had to halt production. In 2006, an accidental release of storm water and oil caused another ship canal closure, again, blocking the supply to refineries. Again, the exchange for the strategic petroleum reserve kept these refineries running.

In my district I have a number of refineries that depend on the Houston Ship Channel. A closure of that channel could be devastating to these companies and the workers, not to mention the economy that depends on their fuel.

My question is, Mr. Smith, do the requirements of Congressman Gardner's bill apply to exchange from the Strategic Petroleum Reserve such as the ones we that are we were done to address ship channel closures in 2000, and 2006?

Mr. SMITH. Thank you for the question, Congressman. I can't speak to the details of exchanges. It is just something, I am not familiar with that clause of the regulation. What I can say is that anything in the regulation that is going to restrict the ability for us to use the Natural Petroleum—Strategic Petroleum Reserve in a way that protects national security and in a way that allows us to respond to emergency disruptions in supply that might cause price spikes for American consumers would be something that is going to be taking away a primary tool that the Federal Government does have at its exposure to protect the American consumers, and it would be something that would not be in the best interest of the American public.

Mr. GREEN. So would an exchange from just one refinery to address an emergency interruption trigger the rift requirement to create a leasing plan?

Mr. SMITH. Well, my understanding is that exchanges are covered.

Mr. GREEN. OK. In June of 2000 exchange I mentioned early on, it was only 500,000 barrels, that is less than one-tenth of 1 percent of the holdings of the "SPRO". Mr. Smith, would this bill require you to create a nationwide leasing plan because of the exchange of less than one-tenth of 1 percent of the "SPRO," and the plan would have to increase leasing of Federal land by less than one-tenth of 1 percent?

Mr. SMITH. Well, my understanding of the legislation as it is proposed is that the draw down to the "SPRO" would be tied, the utilization of the "SPRO," would be tied to the requirement to create plans to increase production on public lands, which would involve

working with all of the regulatory and legal authorities and estimates of private companies that would be producing on the private end.

Mr. GREEN. I don't want any confusion. I want us to lease on public lands everywhere we can, but I also know that if we tie it to the "SPRO" there are some emergencies that happen, and we know in our district what happened with Hurricane Ike came into the Houston Ship Channel, we had to shut down those refineries, and literally the price of oil went up, the price of gasoline went up until we could get them up, and we had airline companies and DOD saying, we need to get those refineries back up.

So I worry that if we have a disruption, that we need to have the "SPRO" on a short-term basis in some cases to help.

Mr. SMITH. Well, and just to be clear about the response, you know, we are certainly in favor of having that flexibility to respond should need be, and we are also in favor of generally speaking, making sure we have got an efficient process to produce oil and gas on public lands. The tying of the two together is something that would make us less effective.

Mr. GREEN. Thank you.

Mr. SHIMKUS. I just want for the record my ranking member of my subcommittee did get like 38 additional seconds so—thank you, and I would like to recognize myself for 5 minutes.

Ms. McCarthy, I really do personally respect you and have great admiration for your work, but you all are just killing us in southern Illinois, our coalminers and our electricity generation by coal. So I have a couple of questions.

Under the new standards, if a power producer were to build a new coal-fired power plant, what would that cost be?

Ms. MCCARTHY. Mr. Chairman, we are talking about the greenhouse gas?

Mr. SHIMKUS. Right.

Ms. MCCARTHY. Well, we took a look, frankly, and there are—there is anticipated no proposals for coal fired at this point in time, but we did take a look at it. We looked at the costs and benefits.

Mr. SHIMKUS. Well, we did the calculation based upon your own numbers. Your inventory greenhouse gases said this fossil fuel electricity generation emitted 2,154 million metric tons of CO2 in 2009. Your report, interagency report says that that would cost between 60 to 90 per ton in CO2 avoided, and if we assume 50 percent carbon capture, it would cost between $64 to $102 billion to replace our existing coal-fired generation with new plants using CCS.

We would be happy—we have economists. We will be happy to share those numbers with you, but those are the costs incurred.

Let me go to another question.

Ms. MCCARTHY. Just for clarity, this has to do with future power plants?

Mr. SHIMKUS. That is right. If we are going to replace our current ones with future power plants under your standards, it will cost $60 to—$64 to $102 billion based upon your numbers.

Now, let us go to the second question. In the analysis the EPA assumes that nobody would want to build a new coal-fired power plant. Is that correct?

Ms. MCCARTHY. That is the modeling done by——

Mr. SHIMKUS. Right. So you are saying no one is going to build one anyway. In fact, I have got your all's quote here that says we don't think anybody is going to do it with these additional costs incurred.

Ms. MCCARTHY. Not at this point in time, Congressman——

Mr. SHIMKUS. Yes.

Ms. MCCARTHY [continuing]. Because of the availability and price of natural resources.

Mr. SHIMKUS. Isn't it a self-fulfilling prophesy that if you issue rules that nobody could meet that we won't have electricity generation by coal?

Ms. MCCARTHY. One of the reasons why we created a 30-year window was to ensure that there was a pathway forward.

Mr. SHIMKUS. Well, there—at $64 to $102 billion, there is no pathway forward.

Let me go—coal is our most abundant source of low-cost domestic energy. How is taking coal out of our energy mix consistent with the All of the Above energy strategy?

Ms. MCCARTHY. EPA is not preventing either the continued use or the construction of new coal.

Mr. SHIMKUS. OK. Mr. Barton sent a letter, the Department of Energy responded on May 28, 2009, and I quote. "Timeframe for undertaking a project varied depending upon the scale and complexity of the project with smaller-scale projects typically lasting 3 to 4 years in duration. Larger scale near-commercial scale, this is for carbon capture and sequestration, projects taking 10-plus years to complete."

Now, I am in one of the largest areas where carbon capture and sequestration is thought to be able to do it, and we are not there. No one is going to go there. Also, on the DOE letter it says, "A legal framework is needed to provide certainty in having to deal with ownership of the geological core space." That is never going to happen. So to think we are going to move to carbon capture and sequestration is just very frustrating.

This administration promised before the election that they were going to bankrupt coal, and if I could run the U–Tube clip.[Video shown]

Mr. SHIMKUS. OK. This is to the San Francisco Chronicle, and the President basically says—so the issue is his goal was to bankrupt coal generation, electricity generation by coal, and it is not just greenhouse gases. Mr. Barton was correct. Greenhouse gases is the challenge next. What is the electricity generation by coal challenges now? Boiler MACT, mercury MACT, transport rule, coal ash. So, yes, let us put a new burden on future generation, but you are not admitting the burden that is closing down coal-fire power plants today. So you are already taking the ones out today through current regulation. You are going to take out the next generation of coal through greenhouse gas.

My time has expired. I yield back.

Now I would like to recognize Ms. Castor for 5 minutes.

Ms. CASTOR. Well, thank you, Mr. Chairman.

Mr. SHIMKUS. Now, wait. Mr. Rush is back. So, Mr. Rush, you are recognized for 5 minutes.

Mr. RUSH. I want to thank you, Mr. Chairman. I seen that very exciting there, but you were excited as much to do about nothing. I mean, you—what was the President speaking of? You are trying to insinuate—you are taking a brief three or four words out of total context what he was saying, and Mr. Chairman, that is——

Mr. SHIMKUS. Would the gentleman yield?

Mr. RUSH. No, I won't yield.

Mr. SHIMKUS. It is 3–1/2 minutes.

Mr. RUSH. That is the way that your side continues to operate. Take a few words that the President says, take it out of context, and then start attacking it in the context that you want to place it in and start attacking him on those few words. I am sure that the President wasn't talking about all the coal plants. He was talking about the most egregious polluters, and that—I am not going—but I just want to make a point that that is totally out of line and with fairness, and that is totally out of line with the way I would think that the Chair would operate.

And Mr. Chairman, I just think that that is very malicious on your part because those comments were taken out of, totally out of context. Totally out of context.

Ms. McCarthy, what would the health implication be of compelling the EPA to consider cost when setting health-based standards?

Ms. MCCARTHY. The implication would be that science and the advice of the scientists and health experts would no longer be the primary and sole way in which the Clean Air Act defines the goals that it is trying to achieve to protect the public and deliver clean air.

Mr. RUSH. Would implementing this bill help reduce prices at the pump?

Ms. MCCARTHY. As far as I can see it will have no impact on the price at the pump. For the most part the rules that it is delaying have not even been proposed, so they could not possible be influencing the price of gasoline today.

Mr. RUSH. So, again, and this is much ado about nothing as far as what we are going through here today, and these are my comments. I am not asking you a question as it relates to this hearing and what we are attempting to do in terms of blaming the EPA and the administration for the rising, the prices at the pump.

Also blocks the EPA from setting new Tier 3 Emission Standards for motor vehicles and gasoline, some may believe that the current standards are sufficient and that air quality has improved enough. Why do we need to consider additional Tier 3 Standards?

Ms. MCCARTHY. Tier 3 Standards would deliver needed and required public health protections to deliver cleaner fuel that is lower in sulfur and also to ensure that vehicles continue to ratchet down the amount of NOxs and VOC emissions. It is also providing fuels that will allow new technologies to enter into the market, technologies that the car companies are looking to deliver to the American people so that we have clean and more efficient vehicles.

Mr. RUSH. In the absence of Tier 3 Standards, how will States and localities achieve the emission reductions needed to achieve clean health air?

Ms. MCCARTHY. Tier 3 is going to be one of the most cost-effective methods of delivering public health protections to the Amer-

ican public. If they are denied those protections, then they will have to look at other potentially much more costly ways of achieving those reductions that are necessary to protect their health.

Mr. RUSH. And in these present economic environment and the plight of States and local governments, do you think that will be part of the problem or part of the solution in your opinion?

Ms. MCCARTHY. I think it is safe to say our partners at the States, local communities, and the tribes are looking to the Federal Government to deliver for them just these types of rules that deliver significant public health protections at very, very, very low costs.

Mr. RUSH. So how would Tier 3 Standards affect the price of gasoline?

Ms. MCCARTHY. From what we can tell in the policies that we are looking at now because the rule hasn't been proposed, we are estimating a cost at less than a penny a gallon.

Mr. RUSH. Gasoline regulations will not do nothing to guarantee the lower of gasoline prices or reduce our dependency on oil. What it does is guarantee as Americans we will continue to breath polluted air.

Mr. Chairman, with that I yield back the balance of my time.

Mr. WHITFIELD. Thank you.

At this time I recognize the gentleman from Texas, Mr. Burgess, Dr. Burgess, for 5 minutes.

Mr. BURGESS. Thank you, Mr. Chairman, and Mr. Smith, your testimony that you provided us this morning reading the start of one of the paragraphs it says, "The Obama administration is committed to expanding the safe and responsible production of America's energy resources." And let me just say I wholeheartedly concur, and I congratulate the President for being correct on this and congratulate him on espousing this as a policy that he wishes to push forward.

The second part of your statement, though, confuses me. It says, "which is one reason why U.S. oil production has increased each year the President has been in office." The President has been in office a little over 3 years. We sat in this committee room for a whole day in 2008, and heard a hearing on the speculation effect on oil prices in 2008, if you recall prices were very high, similar to what we are seeing this year, and we heard testimony that day that it wouldn't do any good to drill because if you drill today, you wouldn't see anything for 4 to 7 years.

Now, I will submit that if we drilled 4 years ago, maybe then we would be seeing something happen now, but hard to see how your two statements are true and related if, indeed, you want to take credit for what the President has implemented. That credit is actually going to accrue a few years from now, not today. Is that not correct?

Mr. SMITH. Thank you for the question, Congressman. A couple comments. First of all, I am glad we have some agreement on——

Mr. BURGESS. Sure.

Mr. SMITH [continuing]. Some of the aims and——

Mr. BURGESS. Always looking for areas of agreement. That to me, I am Mr. Bipartisan, always looking for areas where we can get together.

Mr. SMITH. That is encouraging. The second part of your question, not only are policies and practices in place that are incentivizing production and allowing companies to get to work in a way that is expeditious, you know, creating better value for American consumers, but as you look at the activity that is going on right now, if you look at the rig count that is going on right now, not only are we producing more barrels right now, but there is actually more activity going on in the United States in terms of producing, crudely producing our domestic oil and gas resources than any time in the past.

Mr. BURGESS. If I may just reclaiming my time, and I live in an area of north Texas, we live on top of the Barnett Shale, and we have seen a lot of activity. Now, the activity is diminishing, the price has gone down, and dry gas production is apparently not as lucrative as gas and liquids in other parts of the State, but nevertheless, it has been an economic benefit to our part of the State.

On the other hand, it has not come without a cost, and there are municipalities who have had to make some pretty tough decisions regarding where they allow the citing of these well, where they allow drilling, how they handle the disposal of waste water. But, again, it is all on private land. None of this is developed on Federal land, so I would just submit to you some of the boom we are seeing in energy production, and I am grateful that the gas I there, I am grateful that the cost has come down from what it was 5 and 6 years ago.

At the same time it has not been without some significant angst at the local level because all of these things have to be managed at the local level because, again, these are not on Federal land somewhere out in the wilderness. These are on private lands very near existing residential neighborhoods and very near existing development.

Now, one of the Presidential candidates is talking about a goal for setting a goal for gasoline prices at $2.50 a gallon. Is that realistic?

Mr. SMITH. Well, Congressman, you know, first of all, I grew up in Fort Worth, Texas, so I saw that boom firsthand and as I go back and forth I see the impact that local drilling has had both in terms of creating jobs and creating opportunities for the people who live there but also concerns about the fact that you are undertaking these activities in people's backyards.

So there is going to be some concern about the environmental impacts of drilling.

Mr. BURGESS. Which is why I would submit if we would open up more Federal lands, we could move away from where the people are and still develop the product, but be that as it may, $2.50, is that a realistic goal?

Mr. SMITH. I think that——

Mr. BURGESS. Add State and Federal taxes to that it is almost $3 a gallon. You know, that is pretty modest in my opinion.

Mr. SMITH [continuing]. What American people understand is that there is not a one-point plan or a five-point plan or a ten-point plan that is going to result in a big precipitous drop in gasoline prices.

Mr. BURGESS. I am going to surprise you again. I agree. All the above, all hands on deck. I think it is necessary.

Administrator McCarthy, before my time expires, I have just got to ask you in your testimony you talked about the effect of ozone on patients who have asthma, and you have talked about this before.

Ms. MCCARTHY. Yes.

Mr. BURGESS. For heaven sakes, you have got something within your grasp to help people with asthma right now today, because as you know, January 1 because of the banning of CFCs in asthma inhalers, no one can buy these things anymore, and asthma patients wake up at two o'clock in the morning without any other med, they have got no option now other than going to the emergency room and spending 1,500 bucks to get a breathing treatment.

Why cannot we have a waiver to allow existing stocks, I am not asking for anybody to make anymore, but allow existing stocks of Primatene to be sold in the drug stores until they are exhausted just to give a little relief to those asthma patients that you profess to be so concerned about?

Ms. MCCARTHY. Congressman, we have heard nothing from FDA that indicates——

Mr. BURGESS. Wait. No FDA. OK. We have jurisdiction over them, too. I got a beef with them as well. This is your jurisdiction. Grant a waiver so existing stock, which has already been approved by the FDA, can be sold to patients today who may need this product tonight. If we cared about asthmatics, if we weren't conducting a war on asthmatics, we would allow this to happen.

I have submitted a letter to the President on this. I would ask that it be made part of the record. I simply do not understand EPA's intransigence on this. It makes no sense, and people are suffering as a consequence.

Mr. WHITFIELD. Without objection the letter will be admitted for the record.

[The information follows:]

MICHAEL C. BURGESS, M.D.
26th District, Texas

ENERGY AND COMMERCE
Subcommittees:
Health
Vice Chairman
Oversight and Investigations
Energy and Power

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February 29, 2012

President Barack Obama
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

President Obama:

As a lifetime asthma sufferer, I would like to bring to your attention an issue that has been of critical importance to me as well as to millions of asthma sufferers across the country. On January 1, 2012, a common over-the-counter (OTC) emergency asthma inhaler, Primatene® Mist, was forced off pharmacy shelves due to an international treaty agreement known as the Montreal Protocol which bans the use of chlorofluorocarbon (CFC) propellant, an ingredient in Primatene® Mist. Primatene® Mist is the only OTC approved inhaler for asthma symptoms with epinephrine as the active ingredient.

Currently, the Food and Drug Administration (FDA) has under its review a replacement OTC inhaler for Primatene® Mist. While I am concerned over the undue delay in the review of this medication by the FDA, my more immediate concern is over the current lack of any available OTC emergency asthma inhaler. I myself have used Primatene® Mist on numerous occasions where I have found myself in need of an emergency inhaler, and I know other asthma sufferers who have found themselves in the same situation. At present, asthma sufferers who find themselves awake at 2am with an unexpected asthma attack, and who do not have immediate access to an inhaler, are faced with the costly and time-consuming task of rushing to the emergency room for a prescription inhaler, increasing healthcare costs and doing a disservice to asthma sufferers who have long found comfort in knowing that relief could be had with just a short trip to the local drug store.

What is all the more frustrating with this situation is that the OTC version of Primatene® Mist is still available in large stocks, sitting in warehouses, unable to be sold in the U.S. Further, the Environmental Protection Agency (EPA), which has repeatedly espoused its concern over asthma sufferers nationwide, has the ability to grant a waiver to the Montreal Protocol and allow the existing stock of Primatene® Mist to be sold. I have repeatedly approached representatives of the EPA, including Administrator Lisa Jackson and Assistant Administrator Gina McCarthy and asked them to grant such a waiver. While simultaneously pointing their fingers at claiming

the problem lies at the feet of the FDA, they have been unresponsive in answering why the EPA has thus far refused to grant a waiver to allow the existing stock of Primatene® Mist to be sold.

If assisting asthma sufferers and lowering healthcare costs are truly a priority for your administration, allowing the existing stock of Primatene® Mist to be sold to asthma sufferers should be an easy decision. The small amount of CFC propellant used in the remaining stock of Primatene® Mist will hardly have a negative impact on the global environment, especially when weighed against the health benefits of assisting asthmatics suffering from emergency attacks. Indeed, even if not used, the existing stock of this life-saving drug will simply be discarded, allowing the propellant to be emitted into the atmosphere without providing its known benefit to asthma patients. Moreover, this is a finite number of Primatene® Mist inhalers which are at issue, as the company responsible for their manufacture has already switched over to a Montreal Protocol-compliant propellant currently under FDA review.

Because of your stated commitment to helping asthma sufferers and lowering healthcare costs generally, and EPA's refusal to respond to calls to allow the existing stock of Primatene® Mist to be sold, including letters from the Energy & Commerce Committee which have gone unanswered by the EPA, I am writing to you to ask that you direct Administrator Jackson to review this issue and allow Primatene® Mist to be sold until the existing stock is depleted and FDA is able to fully review and approve its replacement. The health and lives of millions of Americans are at risk until this issue can be resolved.

Sincerely,

Michael C. Burgess, M.D.

Mr. BURGESS. And Mr. Shimkus asked me if I would submit it on his behalf subject for the record as well dealing with if you want to build a coal plant, you can, but it is going to bankrupt you. Can I submit that for the record?

Mr. WHITFIELD. Without objection, so ordered.

[The information follows:]

Audio: Obama Tells SF Chronicle He Will Bankrupt Coal Industry

By P.J. Gladnick | November 02, 2008 | 07:26

A A

(Please read update about the San Francisco Chronicle neglecting to mention Obama's willingness to bankrupt the coal industry at bottom of this blog.)

Imagine if John McCain had whispered somewhere that he was willing to bankrupt a major industry? Would this declaration not immediately be front page news? Well, Barack Obama actually flat out told the San Francisco Chronicle (SF Gate) that he was willing to see the coal industry go bankrupt in a January 17, 2008 interview. The result? Nothing. This audio interview has been hidden from the public...until now. Here is the transcript of Obama's statement about bankrupting the coal industry (emphasis mine):

> Let me sort of describe my overall policy.
>
> What I've said is that we would put a cap and trade system in place that is as aggressive, if not more aggressive, than anybody else's out there.
>
> I was the first to call for a 100% auction on the cap and trade system, which means that every unit of carbon or greenhouse gases emitted would be charged to the polluter. That will create a market in which whatever technologies are out there that are being presented, whatever power plants that are being built, that they would have to meet the rigors of that market and the ratcheted down caps that are being placed, imposed every year.
>
> **So if somebody wants to build a coal-powered plant, they can; it's just that**

it will bankrupt them because they're going to be charged a huge sum for all that greenhouse gas that's being emitted.

That will also generate billions of dollars that we can invest in solar, wind, biodiesel and other alternative energy approaches.

The only thing I've said with respect to coal, I haven't been some coal booster. What I have said is that for us to take coal off the table as a (sic) ideological matter as opposed to saying if technology allows us to use coal in a clean way, we should pursue it.

So if somebody wants to build a coal-powered plant, they can.

It's just that it will bankrupt them.

Amazing that this statement by Obama about bankrupting the coal industry has been kept under wraps until this time.

UPDATE: NewsBusters' Tom Blumer has found out that the San Francisco Chronicle story published on January 18 based upon this January 17 interview did not include any mention of Obama's willingness to bankrupt the coal industry which you can hear on the audio. You can read the story here when you scroll down to the "In His Own Words" section. Way to cover up for The One, SF Chronicle!

Mr. WHITFIELD. At this time I recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Mrs. CAPPS. Thank you, Mr. Chairman.

Director Abbey, we have been told that the proposal relating to the Strategic Petroleum Reserve is about linking supply from the Strategic Petroleum Reserve, which I will refer to as "SPRO," to supply from domestic production. The proposal says that—or the bill that is being proposed says that we can't release oil from the "SPRO" no matter how important the reason is unless we also engage in a duplicative planning process to lease more Federal land for oil production years down the line.

The bill sponsor has said that this bill is intended to increase production, and I quote, "to match the amounts released from the reserve."

However, while the proposal would interfere with operation of the "SPRO," it may not achieve this goal. The bill ignores the fact that the Department of Energy has no expertise in lease sales, that lease sales may or may not be bid on by industry, and that leased land may or may not produce oil.

Director Abbey, does this bill specify how much production from Federal land should be increased?

Mr. ABBEY. It doesn't the way at least I interpret it. It does require us to make available more Federal minerals as a result of any release from the reserve.

But let me point out as I state in my opening remarks, we are already leasing land. Last year the Bureau of Land Management held 32 oil and gas lease sales offering up 4.4 million acres on approximately 1,750 parcels. Of those 1,750 parcels 1,296 were actually leased.

Mrs. CAPPS. Right.

Mr. ABBEY. We have 38 million acres already leased on onshore, we have another 38 million acres already leased on the Outer Continental Shelf. Of the 76 million acres that the Department of Interior has already leased, 50 million of those 76 million acres have not even been explored or developed at this point in time.

Mrs. CAPPS. Let me ask. I want to get some certain specific things on the record, so if I could just ask you a series of questions that pretty much could be responded to with a yes or a no, and Mr. Abbey, if we look at acreage leased nationwide, is there a simple calculation to find the oil and gas holdings of that acreage? In other words, are all acres of Federal land equal in terms of oil and gas holdings?

Mr. ABBEY. They are not.

Mrs. CAPPS. And if acreage is offered for lease, is it guaranteed that industry would bid on those leases?

Mr. ABBEY. No.

Mrs. CAPPS. In recent lease sales, both onshore and off, a significant portion of offered leases have not received bids. Is that correct? I believe I just heard you say that.

Mr. ABBEY. Primarily on offshore.

Mrs. CAPPS. Primarily on offshore?

Mr. ABBEY. Uh-huh, and in the case of Alaska as well.

Mrs. CAPPS. Offshore leases.

Mr. ABBEY. Onshore and Alaska.

Mrs. CAPPS. Offshore and on, a significant portion of leases have not received bids that have already been offered? OK. Moving on. Assuming for the sake of argument that acreage was offered for lease and industry did bid on those leases, is it guaranteed that those lease holders are going to drill on that land or offshore?

Mr. ABBEY. No.

Mrs. CAPPS. OK. A 1 percent draw down from the Strategic Petroleum Reserve would make about seven million barrels of oil available, but it sounds like you were saying, you are saying that a 1 percent increase in the amount of Federal land offered for lease could run a gamut. It might be ten times that, or it might be no oil at all.

Mr. ABBEY. I see no correlation.

Mrs. CAPPS. So there is, in your opinion, no correlation between—there is not an equal over here and an equal over there?

Mr. ABBEY. No.

Mrs. CAPPS. So this bill does not match new domestic oil and gas reduction to draw down from the Strategic Petroleum Reserve?

Mr. ABBEY. I don't see how it is.

Mrs. CAPPS. Well, I have one just comment to make, and then I will let you—because this is your area of expertise, make any further conclusions that you would like to. In my way of understanding this legislation it is just not thought out. I suggest that we need to go back to the drawing board. I suggest this to the Office of the Legislation and perhaps in this subcommittee we need to hold a hearing, Mr. Chairman, on the Strategic Petroleum Reserve before we pass legislation to interfere with its management and operation.

I will yield the last half minute to the director of BLM to respond.

Mr. ABBEY. Well, again, the Department of Interior is quite proud of the work that we are doing to support this administration, but more importantly to support the citizens that we serve in making appropriate lands and waters available for leasing. We are making progress. As I mentioned in my statistics, you know, there is 76 million acres that we have already leased offshore as well as onshore. Fifty million of those acres are not even being explored or developed.

At the same time we have 7,000 permits that we approved last year, I mean, that we have already approved that are not being developed on by the industry.

Mrs. CAPPS. Thank you.

Mr. WHITFIELD. The gentlelady's——

Mrs. CAPPS. I yield.

Mr. WHITFIELD [continuing]. Time has expired.

I might say that this bill does not preclude the release of oil from "SPRO" in the event of an emergency. It simply asks that a plan for leasing be submitted within 180 days.

At this time I recognize the gentleman from California, Mr. Bilbray, for 5 minutes.

Mr. BILBRAY. Thank you, Mr. Chairman.

Following up on that just quickly, there is no guarantee that if you offer land up that you will get bids. Right?

Mr. ABBEY. That is true.

Mr. BILBRAY. But isn't it true that there is a guarantee that if you do not offer the land up, you will get no bids at all?

Mr. ABBEY. That is true.

Mr. BILBRAY. OK. So let us talk about the world of the possible. Do you have the slide up, please? Slide on the Gas Buddy.

To the EPA, if you look at this slide, those of us in California, and let me just say this as—wouldn't you agree that, first of all, probably one of the most successful clean air strategies that has ever been implemented or agencies have been very successful is the Air Resources Board in California. Right?

Ms. MCCARTHY. Yes.

Mr. BILBRAY. OK, and I think Connecticut, you guys kind of kept an eye on us. Can you explain to me then when we are told that oil is fungible around the world, that environmental regulations aren't affecting price, that supply doesn't affect the price, would you take a look at this graphic and explain to me so I can explain to my citizens in California why we have the highest priced gasoline in America as a State?

Ms. MCCARTHY. I am sorry. I don't have the information available to me to make an assumption.

Mr. BILBRAY. OK. Well, let me say as somebody who is a regulator, for me to deny that our regulations didn't have some affect there or the Federal mandate of regulations haven't had an affect there or the fact that domestic supply coming from Alaska and California has dropped of dramatically and we import 55 percent of our oil in California now from the States, I just think that we ought to, Mr. Chairman, I think we ought to have a hearing and try to explain what is that impact, because obviously there is some impact there, and we ought to be upfront about this. I think that that is one of the things I would like to look at.

You brought up the issue of volatile organic compounds, and you used the term tailpipe emissions. Can you explain to me why the Federal Government at this time in our history is still operating off of tailpipe emissions rather than going to total emissions, which at California we did in the early '90s? Why are we maintaining that antiquated testing system when those of us at ARB found it grossly inadequate at reflecting real world emissions?

Ms. MCCARTHY. Just a second. I am sorry. I would like to be able to answer your question, and maybe we could have an exchange after.

Mr. BILBRAY. OK.

Ms. MCCARTHY. But I am not following the question.

Mr. BILBRAY. The question is this. The cutting edge agency on Clean Air that you as a State agency followed and everybody looked to, we had the proof that tailpipe emissions were misleading and did not reflect reality, and we abandoned that I think in 1990, '92. In fact, I think even before that.

When California recognized the failure of using tailpipe emissions, why in the world has EPA continued to use that system, which is faulty science, and you talk about science, faulty testing, why haven't you gone to barn testing and total emissions so it is a real world issue not just sticking a probe in the tailpipe but looking at total emissions?

Ms. MCCARTHY. Well, we—let me just make clear. We do actually look at tailpipe emissions, and we do have almost complete alignment with California who also looks at tailpipe emissions. If you are talking about evaporative emissions, we also address those in various ways, and we look at the fuel that is being used and the vehicle of the engine. So we do look at a variety of ways in which we can actually reduce pollution using our fuels.

Mr. BILBRAY. The point being is that the Federal Government is still not using as their standard for auto emissions total emissions. They are using tailpipe. Right?

Ms. MCCARTHY. We are using a variety of emissions, primarily tailpipe, but we look at evaporative emissions as well.

Mr. BILBRAY. OK. Ma'am, I will just tell you the reason why we abandoned it because we saw in real-life experience that our modeling did not reflect reality, and so we abandoned that a long time ago, and I am still—I still think that the Federal Government is consciously or unconsciously hiding the fact that evaporative emissions are a much bigger issue than what anybody wants to admit to, and tailpipe emissions is a faulty science that hides true emissions.

And so I just ask we take a look at that and have a dialogue about when we talk about let us go science, let us go to real science.

Ms. MCCARTHY. But you do agree that we both look at tailpipe emissions.

Mr. BILBRAY. But you continue to hide evaporative emissions by even using tailpipe emissions in my opinion. We use barn testing out there, we use cold start so you reflect the fact that the catalytic converters don't operate initially, and hot soak, which then reflects the evaporative emission.

I yield back.

Mr. WHITFIELD. The gentleman's time has expired.

At this time I recognize the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. CASTOR. Thank you very much.

You know, if you look back at the past 40 years of the Clean Air Act, and you combine that with the improved fuel economy standards over time for the cars that we drive, this is a real success story for our country and a great success story for our American families. I mean, I remember being younger in the 1970s and going out in the morning and the smog-filled mornings. We don't have those as much anymore thanks to the Clean Air Act.

And we have also made fantastic progress on the gas mileage for our cars, and we are on track now for cars in America to the standard to be 55 miles per gallon by 2025, but a lot of those vehicles are already on the road. That American technology is out there. Someone in my family bought one of the cars recently. It is over 50 miles per gallon, and he loves driving by the gas stations these days.

There are additional policies that the Congress can adopt to address high gas prices over the long term, and I am very disappointed in my Republican colleagues because they continue to turn a blind eye to good public policy. Their prescription, according

to the two bills here, is, one, roll back fundamental health protections. Two, create new bureaucracy on top of existing agencies.

And then they continue to guard the subsidities to the big oil companies. These are not the answers.

There are a few things we should be doing. We could require oil companies to use the oil that is produced in the United States from public lands and offshore to meet the energy needs here at home and stopping oil companies from exporting oil from our public lands and waters to overseas markets. I mean, our domestic production is at an 8-year high, and now America is an exporter. We export more product.

We could repeal the $4 billion per year in Federal subsidies that are currently given to the big oil companies and use that money instead to fund investments that will make us less dependent on oil. After all, the big five oil companies made $137 billion in profit last year, and then you ask the American taxpayer not just to pay one time at the pump, you ask them to pay again when they fill out their tax return.

We could have tighter oversight and regulation of Wall Street speculators to prevent them from artificially driving up the price of gasoline. We could do even more to increase fuel efficiency standards for cars and trucks so they get even more miles per gallon and consumers will save on their gasoline costs.

Just the standards we have in place now it is predicted that will save the average American family at the pump over $8,000 over time. So that is meaningful, and that is doable, and the two bills that are proposed here are—they are simply not the answer.

First let us start with the Gasoline Regulations Act. It studies blocks and delays EPA quality, air quality protections that haven't even been proposed, and I have a hard time understanding how blocking rules that aren't even on the books would do anything to help consumers at the pump.

Ms. McCarthy, would blocking EPA from taking action on rules that haven't even been proposed help lower gasoline prices?

Ms. MCCARTHY. No.

Ms. CASTOR. And this proposal also includes an amendment previously offered by Mr. Latta on the House Floor. It is a radical proposal to overturn 40 years of Clean Air Policy by undermining the goal that air should be clean enough to breathe safety.

Ms. McCarthy, will gutting the Clean Air Act help lower gasoline prices?

Ms. MCCARTHY. No.

Ms. CASTOR. The bills we are discussing today also would create a new, would create new government bureaucracies. Chairman Whitfield's proposal would create a new interagency committee to conduct an impossible study based on data that doesn't exist. Mr. Gardner's bill would assign the Department of Energy the job of developing a new plan for drilling on Federal lands when oil is released from the Strategic Petroleum Reserve, but this isn't even the Department of Energy's area of expertise.

Mr. Abbey, do you think that adding another layer of bureaucracy to help the Interior Department's oil drilling policing process will help lower gasoline prices?

Mr. ABBEY. I do not.

Ms. CASTOR. What about you, Mr. Smith? Do you think adding another Department of Energy, adding the Department of Energy to leasing process for Federal lands will help lower gasoline prices?

Mr. SMITH. I agree with Mr. Abbey. I do not.

Ms. CASTOR. The bill would also apparently require the USDA, the Interior Department, and even the Department of Defense to follow DOE's drilling plan, even if the plan is inconsistent with those Departments' missions authorizing statutes and regulations.

Mr. Smith, can you explain how forcing the Defense Department to follow the Department of Energy's drilling plan, even if it compromises military training, is a sound solution to rising gasoline prices?

Mr. SMITH. I can't really answer that question.

Ms. CASTOR. And Mr. Abbey, can you explain how forcing Secretary Salazar to do whatever Secretary Chu says would lower gasoline——

Mr. WHITFIELD. The gentlelady's time has expired.

Ms. CASTOR [continuing]. Prices?

Mr. WHITFIELD. The gentlelady's time has expired.

Mr. ABBEY. I don't see where it would add value.

Ms. CASTOR. Well, thank you for these, for your testimony. These bills are not——

Mr. WHITFIELD. At this time I recognize——

Ms. CASTOR [continuing]. Real solutions to rising gasoline prices.

Mr. WHITFIELD [continuing]. Mr. Olson for 5 minutes.

Mr. OLSON. I thank the Chair. I would like to welcome the witnesses. Thank you for coming today and giving us your time and expertise.

And Ms. McCarthy, I would like to talk to you about EPA's Tier 3 gasoline rulemaking because as you can imagine good period——

Mr. WHITFIELD. Mr. Olson, excuse me. Excuse me. All right. Go ahead. I am sorry.

Mr. OLSON. I am sorry, sir. As you can imagine the good people of Texas 22 want me to ask you a lot of questions about how this rulemaking is going to impact their jobs. Compliance with these new standards will require refineries to make very large capital investments, and the cost will be passed down to the consumers. America is feeling the pain at the pump as you alluded to in your opening statement.

Our economy can't handle skyrocketing energy prices as the President promised in the video my colleague from Illinois showed earlier today. Now is not the time for unjustified new regulations that will raise the price of fuel even further.

In a letter to Congress in February you affirmed that your agency plans to propose gasoline sulfur changes only, a likely reduction of ten parts per million in sulfur. I know that you know that the Tier 2 Standards have already reduced sulfur from 300 parts per million down to the current standard of 30 parts per million, a 90 percent reduction.

Will the EPA propose to reduce the sulfur standard to ten parts per million? You said you were considering it.

Ms. MCCARTHY. We haven't even yet proposed the rule. It has not gone through interagency review. I hesitate to tell you what we will actually propose at the time.

I will tell you that we are very interested in ensuring that there is a national standard for the amount of sulfur in gasoline and that it be a cost-effective way of achieving reductions, and I don't think that there is enough information out yet for people to assume that there are going to be significant capital expenses associated with complying with a rule that we have yet to propose.

Mr. OLSON. And that is what they are most scared about is there is no, they have no idea where you are going to go with this proposal. We achieved a 90 percent reduction. That is something to be very proud of.

Has your agency studied how the Tier 3 Standards will impact gasoline prices?

Ms. MCCARTHY. We will be, we will obviously have to do that and will have a public debate about that when the rule comes out. It will be a accompanied by a complete economic analysis that will look at all prices associated with this rule that we can identify.

Mr. OLSON. I look forward to you getting us that information.

I would like to add also, do you believe that as my colleague from Maryland mentioned earlier today that he thinks that your study will result that gasoline prices are somewhere in the cost of a gallon of one penny will be what the increase to Tier 3 Standards? Do you think one penny is the number on the price per gallon of gasoline? Something like that as my colleague from Maryland stated?

Ms. MCCARTHY. Right now the policies that we are considering, and, again, it is yet to be gone through the process and out in the public arena, is we estimate that the cost associated with this rule will have an impact of less than a penny on a gallon of gasoline.

Mr. OLSON. Well, I would love to see that statement when you get it out there, because the facts back home, the work in the industry, think that it will increase their manufacturing costs by about 9 cents a gallon. It is almost, you know, nine times what you are proposing, what you think may be the limit there. That is significant.

Do you know of any refineries right now that can comply with the ten parts per million standard?

Ms. MCCARTHY. I am sorry. Say that again.

Mr. OLSON. Do you know any refineries right now, ma'am, that can comply with the proposed ten parts per million standard?

Ms. MCCARTHY. What I do know is that under our rules and under our proposal we will be giving substantial lead time associated with any rule change as we always do. In the case of fuel standards it is usually 4 years, and I believe that the standard that we are considering is certainly achievable with current technologies.

Mr. OLSON. We have been told that 17 refineries currently can attain, can achieve those standards, but do you have any idea how many refineries are going to have to install expensive retrofits to comply with the ten parts per million?

Ms. MCCARTHY. We will be looking at that and providing that information, and we are working with the refinery industry now, and I would note that they are already looking at how they can comply with these standards, and they always seem to be able to use their innovation and knowhow to achieve these standards much more efficiently and at lower costs than we anticipate.

Mr. OLSON. And I have been told that 110 or more of the refineries are going to have those expensive retrofits, and finally just do you have any idea what the cost is going to be to the industry to get down to ten parts per million?

Ms. MCCARTHY. I cannot—that certainly will come out in the regulatory impact analysis that we release with the rule.

Mr. OLSON. And does this problem have a negative impact on consumers? What about their health? I mean, obviously, you have no power, that is going to impact our jobs, we will have no jobs, no people's healthcare, no people—and if people are out there are struggling, that is a health impact, and so I submit to you EPA needs to include these analyses in the proposal. It can't just be done in a box in a vacuum. You have to take into account what you are actually doing to our economy because there are health impacts of these rules.

And it looks like I have used my time and yield back. Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you. At this time I recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman. Today's bills may win the prize for legislative false advertising. These bills will not reduce gasoline prices by a single penny. Instead they will block pollution controls, increase health costs for Americans, diminish our energy security, and create pointless new government bureaucracies. There is no silver bullet for gas prices.

But there are some critical steps we can take to reduce our vulnerability to swings in world oil markets and gas prices. This administration is taking those steps and getting results. The most effective thing we can do is use less oil. If your car is more efficient, increased gas prices will have less effect on you, and if all of our cars and trucks are more efficient, increased gas prices will have less effect on our whole economy.

Recent data from the Energy Information Administration underscores this point. Cost per mile driven were about 23 cents in 1980. Last month gas prices were higher than any previous February, but thanks to more efficient vehicles, the cost per mile driven were lower, only 16 to 17 cents per mile.

Ms. McCarthy, what has EPA done and what are you working on that will protect American consumers from gasoline price spikes?

Ms. MCCARTHY. We have been working on——

Mr. WAXMAN. Is your mike on?

Ms. MCCARTHY. Is it? OK. We continue to work on fuel economy standards with NHTSA and what we do is ensure that there are greenhouse gas reductions that are driving both reductions in the amount of oil that is demanded by this country, as well as providing significant cost savings in cleaner air for the American people.

Mr. WAXMAN. Millions of Americans are already enjoying savings at the pump with new model year 2012, vehicles. As new cars become more efficient, the least efficient oldest cars are gradually phased out, improving efficiency, saving money throughout the whole fleet. In addition to reducing the demand, the Obama administration is also increasing domestic production.

Mr. Abbey, please describe the administration's achievements in increasing domestic reduction.

Mr. ABBEY. Well, as Mr. Smith indicated in his opening remarks, domestic oil and gas reduction has increased each year of the Obama administration and is the highest it has been in almost a decade, and I know that there is some criticism that most of that increase is on private lands and minerals, but that is not necessarily the case. Even though there was a dip last year relative to the amount of oil that was produced from public lands, in the first 3 years of the Obama administration total Federal oil production has increased by 13 percent over what was produced in the final 3 years of the Bush administration.

Mr. WAXMAN. The increase in U.S. production does not lower gas prices. Every oil market economist tells us that. Years of experience here and in other countries proves it. For example, Canada is a net oil exporter but still experiences the same gasoline price spikes we do. The real answer to gas prices is to reduce our dependence on oil, which means transitioning to alternatives. Here, too, the Obama administration is investing serious effort and making real progress.

Mr. Smith, what is the Department of Energy doing to develop alternatives to oil?

Mr. SMITH. Thank you for the question, Congressman. One observation, we pointed out the fact that as Director Abbey just mentioned, that oil production here is at an 8-year high. If you——

Mr. WAXMAN. What are you doing to develop alternatives? Are you doing things in the battery technologies, vehicle electrification, renewable electric power in natural gas vehicles? Are those things you are working on?

Mr. SMITH. Congressman, we are working on all of those things.

Mr. WAXMAN. And so that will help us develop alternatives so we don't have to use that—as much oil, isn't that right?

Mr. SMITH. Yes, it will.

Mr. WAXMAN. Ms. McCarthy, what has the combination of more efficient vehicles and more alternatives to oil done to reduce U.S. oil dependence?

Ms. MCCARTHY. It has significantly reduced oil independence by billions of barrels of oil each and every year.

Mr. WAXMAN. And Mr. Smith, what has happened with oil imports as a result of these achievements?

Mr. SMITH. Oil imports have declined every year of this administration.

Mr. WAXMAN. Oil imports have fallen from 60 percent to 45 percent. Last year the U.S. became a net exporter of refined products for the first time since 1949, according to EIA. The Obama administration is doing exactly what is necessary to reduce the dependence on oil, reduce our vulnerability to gasoline price spikes for over the long term, but there is no quick fix. Anyone who tells us that we can drill or deregulate our way to $2.50 gasoline isn't telling us the truth.

Finally, I would like to note that the Tier 3 Clean Vehicle and Fuel Requirements are critically important to reducing unhealthy air pollution that is affecting millions of Americans.

Ms. McCarthy, when will the EPA propose these provisions?

Ms. MCCARTHY. We are actively working on these rules, and we hope to have them ready for interagency review shortly.

Mr. WAXMAN. Well, I urge you to do it as soon as possible. Cleaning up vehicles and fuels is a highly cost effective way to reduce air pollution and keep our children and families healthy.

Thank you, Mr. Chairman.

Mr. WHITFIELD. At this time I would recognize the gentleman from Nebraska, Mr. Terry, for 5 minutes.

Mr. TERRY. Thank you, Mr. Chairman.

First of all, I just want to follow up on what I heard is that the administration is responsible for the reduction in oil imports. That is interesting considering that most economists state that the reduction of imports is due to a recession where people used less, and so I assume that the President is now claiming credit for the recession now.

Is that an accurate statement, Mr. Smith? Yes or no?

Mr. SMITH. What we will say, that was not a——

Mr. TERRY. That is a yes or no. Is he claiming credit for the recession now since that had the largest impact in reducing imports?

Mr. SMITH. Congressman, that is not a yes or no question.

Mr. TERRY. Well, then probably you shouldn't have answered that that way.

Now, Ms. McCarthy, are the new Tier 3 Standards to be proposed, are those discretionary or mandatory?

Ms. MCCARTHY. We have not yet proposed the Tier 3 rules but——

Mr. TERRY. That is why I said to be proposed.

Ms. MCCARTHY [continuing]. They are——

Mr. TERRY. Are those discretionary or mandatory?

Ms. MCCARTHY. They are mandatory.

Mr. TERRY. They are mandatory?

Ms. MCCARTHY. Yes. We are required to look periodically at fuels and vehicles and to make adjustments to comply with the requirements under——

Mr. TERRY. OK. Under what authority then specifically are they mandatory?

Ms. MCCARTHY. I will get back to you with that, Mr. Congressman.

Mr. TERRY. OK. Do you know how much time you would need to be able to get back to us on the basis of the authority that they would be mandated? All right.

I just—could you do it in 30 days?

Ms. MCCARTHY. I should clarify, and I just received clarification. When I said they were mandatory, we are looking at requirements to reduce pollution necessary to achieve ozone standards. They are not required apparently under Title II of the Act. They are a discretionary act on our part, which is providing cost effective reductions of ozone precursors.

Mr. TERRY. OK. So they are discretionary.

Ms. MCCARTHY. I believe—if you are talking about whether or not this specific act is required——

Mr. TERRY. Has——

Ms. MCCARTHY. No.

Mr. TERRY [continuing]. EPA performed an analysis of the accumulative impacts of regulations on fuel prices?

Ms. MCCARTHY. When we look at every fuel rule, we look at the rules that have come before. They are built into the baseline, and we take those into account relative to our economic analysis.

Mr. TERRY. So they have not yet been performed?

Ms. MCCARTHY. When we do a fuels analysis, we look—the baseline includes all of the regulations that have come before. So they take account of all of the regulations——

Mr. TERRY. So you take the studies that have been done before on accumulative impacts of the regulations? I think you are kind of half answering the question, and so it is confusing me.

Ms. MCCARTHY. Well, you have defined cumulative impact differently in the proposed act that I am testifying on, so I am trying to make that distinction. When we do our rules, we look in the baseline——

Mr. TERRY. Right.

Ms. MCCARTHY [continuing]. When we look at what the costs are associated, the rules we consider.

Mr. TERRY. If I ask to be delivered with the next 24 hours your analysis of the cumulative impacts to date on fuel prices, could you provide me anything?

Ms. MCCARTHY. We could provide you with an assessment of the individual, the costs associated with each of these rules as we propose them.

Mr. TERRY. So you said individual, but I am talking about cumulative where you can determine——

Ms. MCCARTHY. Well, some of those will be redundant, so there will be overlaps in those costs, but we can certainly provide you as best we can the information that you looking for.

Mr. TERRY. All right, and I asked about the cumulative impact on fuel prices. How about the cumulative affect of these regulations on businesses?

Ms. MCCARTHY. We look at impacts both relative to small businesses as well as the economy at large. We look at costs associated with refineries, we look at consumer costs. Those are all included in our economic analysis.

Mr. TERRY. All right, but that is on an individual rule basis, but I am talking about the cumulative nature of those. Has there been a study of how together they all affect businesses?

Ms. MCCARTHY. I don't think we could answer a question as broad as that with the analysis that we do.

Mr. TERRY. All right. Well, I think that answers the question, and it would be no. Just one last observation in my 12 seconds, not a question, but we have heard along the rant earlier from the gentlelady from Florida that data doesn't exist. I think that is probably why we are here, but you have also then stated that you have studies that show that the Tier 3 will only impact gas prices 1 percent. So I am hearing that you don't have studies——

Ms. MCCARTHY. No. By less than a penny.

Mr. TERRY [continuing]. But that you do have studies.

Yield back.

Mr. GARDNER [presiding]. The gentleman yields back.

The gentleman from Massachusetts is recognized for 5 minutes.

Mr. MARKEY. Thank you, Mr. Chairman.

Today is the 17th time this committee has met to discuss some form of repeal of the EPA's Clean Air Act authority during this Congress, and the House has acted so far on Republican bills to, one, prevent EPA from reducing the amount of oil we have to import from hostile nations, two, preventing EPA from reducing the toxic mercury, dioxin and other chemicals that spew out of power plants and other industrial sources.

Three, prevent EPA from reducing harmful global warming pollution, four, Republicans have even felt compelled to prevent EPA from promulgating fictitious regulations to reduce levels of farm, fairy, or pixie dust, and why did the Republican majority do that? Because when unemployment is spiking, Republicans tell us EPA regulations, even the non-existent ones, are going to kill jobs. But that storyline is getting harder and harder to sell as the economy improves and improves and improves month after month after month, and we see positive job numbers.

So what are the Republicans doing to try to convince Americans anew of the reason why EPA must be stopped now? Well, they shake up the Etch a Sketch and tell America that the new reason to limit and postpone EPA's authority under the Clean Air Act is to stop gas prices from spiking, and just like the committee's earlier efforts to repel non-existent regulations to reduce levels of farm or fairy dust, this new bill also requires a trip to Fantasyland.

Ms. McCarthy, isn't it true that the EPA has no plans to propose an expensive standard to lower the Reid vapor pressure in gasoline and that what you will propose is likely to cost only one penny per gallon?

Ms. MCCARTHY. That is correct.

Mr. MARKEY. Isn't it true that there are also no rules currently in development to reduce global warming pollution from refineries?

Ms. MCCARTHY. That is correct.

Mr. MARKEY. And just so I am clear, are any of the rules that this bill delays or weakens the reason why gas prices are so high?

Ms. MCCARTHY. No.

Mr. MARKEY. So when Americans pull up to the pump these days, there is no question that it is stressful. They see their paychecks trickling away right in front of them, and they can't understand why these prices are spiking, but let me just say this to all the members if they want to hear it. This is not about Obama. This is about OPEC, oil companies and Wall Street speculators.

Now, what does the majority want to do about those things? One, should we deploy the Strategic Petroleum Reserve to send a signal to Wall Street speculators? Republican answer: No, absolutely not. That would interfere with the free market that OPEC totally manipulates in their meetings in Vienna.

Number two, should we fully fund the Commodities Futures Trading Commission, the police on the beat for the Wall Street speculation? The Republicans say no, we are going to kneecap that agency, keep the cops off the beat, and try to stop the rulemakings on manipulation, on position limits, on the kinds of power that the agency would need.

Three, the Democrats say keep the oil and gas that is drilled for on public lands in the United States. Don't send it overseas. How

do the Republicans vote? No. Send that oil overseas, send that gas overseas.

So, ladies and gentlemen, when it comes to lowering gas prices, you know, when you say to them, hey, let us make sure the Keystone Pipeline oil stays in the United States, the Republicans say, oh, no. We are voting no on that, and you did all vote no to keep the Keystone oil in the United States. We had that vote out on the House Floor 3 weeks ago.

So this crocodile tear, concern about consumers and trying to blame the EPA when you have it within your own power right now to do something about gasoline prices is so clear in terms of what the goal is. It is not about Obama. It is about OPEC, oil companies, Wall Street manipulators and speculators, and we see no activity on the side of the Republicans in taking any actions in this area.

Moreover, just for the record, there are one-third more rigs, floating rigs that are going to be in the Gulf of Mexico this summer than there were before the oil spill. So this is a very bad way that Obama has of having a plot to undermine oil drilling in our country if one-third more floating rigs are going to be in the Gulf of Mexico this summer than there were before the actual BP historical worst environmental spill in the United States. And by the way, each one of those CEOs should be sitting down here. You want to investigate the mess we have got in the country, BP should be sitting next to Halliburton, and we should have them under oath, and they should be explaining why they lied or incompetence saying only 1,000 barrels per day were going into the Gulf of Mexico.

I thank the chairman.

Mr. GARDNER. The gentleman yields back.

The gentleman recognizes—the chairman recognizes himself for 5 minutes.

Thank you to the witnesses for being here today and to Mr. Abbey, a question for you. Oil production on Federal lands increased in 2009, and 2010, as a result of leasing and permitting decisions made before your administration took office. However, the fall off in leasing and permitting actions under the Obama administration is apparent and even your own EIA anticipates continued fall off in production in 2012, and beyond.

Isn't it true that BLM leased fewer onshore acre than any administration going all the way back to 1984?

Mr. ABBEY. There is a lot of factors that come into play where we lease. I will say this, that we are moving forward aggressively in identifying appropriate areas for leasing, and we are making progress in offering up more acres each year.

Mr. GARDNER. So let me repeat the question. Is it true that BLM leased fewer onshore acres than any administration going all the way back to 1984?

Mr. ABBEY. Well, that is based upon the market. For example——

Mr. GARDNER. Yes or no? I have the public land statistics right here.

Mr. ABBEY. Yes. We will get——

Mr. GARDNER. So it is yes or no? Have you leased——

Mr. ABBEY. We offered 4.4 million acres for lease last year.

Mr. GARDNER. Onshore acreage according to this shows the past 3 years, 2009, 2010, 2011, the lowest on record going back to 1984, and it is public land statistics is what I am citing data for fiscal year 1984, through fiscal year 2011, from your Web site. So is that true?

Mr. ABBEY. That is true.

Mr. GARDNER. And so, yes, the lowest number since 1984. Thank you.

Oil and gas production on Federal lands and waters declined 14 percent in 2011. However, oil and gas production experienced a massive increase last year on lands controlled by State and private entities. The CRS last week, Congressional Research Service, reported that 96 percent of the increase in oil and gas production between 2007, and 2011, has occurred on non-Federal lands, the lands you do not have anything to do with.

Since the Federal Government does not manage private lands, do you think it is fair for it to take credit for private market decisions?

Mr. ABBEY. Congressman, total natural gas production from public lands, and I am talking about onshore, has increased 6 percent during the first 3 years of the Obama administration and during the last 3 years of the Bush administration.

Mr. GARDNER. So are you taking credit for private land production as well?

Mr. ABBEY. I am talking about public lands.

Mr. GARDNER. But I am asking——

Mr. ABBEY. Six percent on public lands.

Mr. GARDNER [continuing]. A question about private land. You said natural gas, correct, not oil?

Mr. ABBEY. Natural gas. On oil it has increased 13 percent over the last 3 years or the first 3 years of the Obama administration.

Mr. GARDNER. Yes, but what about last year?

Mr. ABBEY. Last year it took a dip.

Mr. GARDNER. It did take a dip. Thank you, and a further question for you, Mr. Abbey. A Citigroup last week predicted total liquids production could double for the continent in the next decade and that the United States could overtake both Russia and Saudi Arabia in oil production by 2020.

Here is what Citi said about new energy production would mean for the U.S. Read GDP would increase by 2 to 3.3 percent, that is $370 to $624 billion. Three point six million direct and indirect jobs could be created by 2020, as a consequence of increased energy production. Our trade deficit could shrink by 80 to 90 percent. The value of the dollar could jump by 1.6 to 5.4 percent due to increased energy production, and risks to the United States, in particular geopolitical risks, would dramatically decrease.

But the only caveat in this report, here is the Citi report right here, is this, and this is a quote from the report. "Whether the increase in production results in the U.S. reducing its imports or whether net exports grow doesn't matter much to world balances. Either way North America is becoming the new Middle East. The only thing that can stop this is politics, environmentalists getting the upper hand over supply in the U.S. for instance."

Yet according to CRS as I mentioned 96 percent of the increase in production from '07, to 2011, was on non-Federal lands. Only

about 5.5 percent of government lands onshore are leased for energy, and you said the lowest amount in 3 years, since 1984, the past 3 years leased. And 93 percent of the shale oil and gas wells have occurred on non-Federal lands, and there is no commercial leasing system for government lands for oil shale production even though Congress ordered one in 2005. And people are worried including Indian tribes about new regulations regarding drilling and fracking that might affect their energy production.

Assuming you agree that more jobs, more GDP growth, more oil production, and more potential to become the largest producer of energy in the world are good things, how do you square your administration of lands and these sorry statistics with those goals? It is clearly not working.

Mr. ABBEY. Well, what I did not see in that report is the fact that there is 50 million acres that have already been leased by the Department of Interior that are going undeveloped at this point in time.

Mr. GARDNER. Does a lease guarantee production?

Mr. ABBEY. It does not.

Mr. GARDNER. Does an oil rig guarantee production?

Mr. ABBEY. It does not.

Mr. GARDNER. Thank you. Further questions to Mr. Smith. Mr. Smith, last week Mr. Chu, Secretary Chu testified saying that supply mattered when it came to price, and I will quote him. "If long-term decreased demand has an affect on price, then don't the basic laws of supply and demand dictate that so will long-term increased supplies?" His response, "I absolutely agree."

Do you believe increased supply will decrease costs?

Mr. SMITH. What we do believe is that over the long term increased supply will have an impact on global oil.

Mr. GARDNER. So a long-term increase in supply will decrease costs like the Strategic Energy Production Act calls for?

Mr. SMITH. I would disagree with the premise of that statement given that this act, what it will do is simply tie any activity that is going on anyway, which is trying to make sure that we are prudently developing acres on public land with an important operational capability that the Federal Government has. So I would disagree with your assertion that this act would actually have an impact on U.S. production or on global oil prices.

Mr. GARDNER. So if you have this under this act, 3 percent of the Federal land is leased onshore without this under this act?

Mr. SMITH. I am sorry. I didn't hear that.

Mr. GARDNER. Without this act 3 percent of Federal lands is leased. Without this act.

Mr. SMITH. Without this act——

Mr. GARDNER. As it stands today, 3 percent of Federal lands is leased.

Mr. SMITH. Is—I am sorry. I am not hearing the question. Three percent of Federal lands is what?

Mr. GARDNER. Leased.

Mr. SMITH. Is leased.

Mr. GARDNER. Right.

Mr. SMITH. Three percent of—well, I mean, you would have to direct that question, I think, to——

Mr. GARDNER. My time has expired. Thank you.

The Chair now recognizes the gentleman from Virginia, Mr. Griffith.

Mr. GRIFFITH. Thank you, Mr. Chairman. I noted with some interest earlier when Mr. Shimkus was talking that he made several comments that I happen to agree with, and then Mr. Rush said, well, this is much ado about nothing. Much ado about nothing? I have to beg to differ.

Three companies in my region have recently either laid off employees or idle production of coal. Much ado about nothing? Tell that to those employees.

When you take utility MACT, boiler MACT, transfer rule, and coal ash and now the greenhouse gas regulations on utilities, you are affecting jobs. My district has a median household income of $36,000. Median household income. The President said that they were going to raise electric rates. Now, he was talking about his cap and trade scheme at the time.

Ms. McCarthy, this is going to raise electricity rates because as the President said when he was campaigning, the utilities, and his quote was, "They will pass that money onto consumers." Isn't that true with your utility plan as well?

Ms. MCCARTHY. We looked at the impact of the mercury and toxics standard on electricity rates, and we did not see a significant increase as a result of that rule, and that was based on looking at the Cross State Air Pollution Rule as well. The Greenhouse Gas Standard that we announced yesterday has nothing to do with the electricity rates.

Mr. GRIFFITH. Has nothing to do with electricity rates because it doesn't affect the current facilities. Isn't that correct?

Ms. MCCARTHY. And it also has very little impact on the future facilities that we anticipate to be constructed.

Mr. GRIFFITH. It would be constructed not using coal, however.

Ms. MCCARTHY. They have a place should natural gas rise so much in price that cost would again be—coal would again become competitive. Right now in most places it is not.

Mr. GRIFFITH. All right. If we could see that clip, please. All right. Let me just read it.

[Video.]

Mr. GRIFFITH. All right. Let me read you what else is in there. "When I was asked earlier about the issue of coal, you know, under my plan of a cap and trade system, electricity rates would necessarily skyrocket." Those—well, let me finish the quote and then I will get onto my hypothesis. "Even regardless of what I say about whether coal is good or bad, because I am capping greenhouse gases, coal-power plants, you know, natural gas, you name it, whatever the plants were, whatever the industry was, they would have to retrofit their operations. That will cost money. They will pass that onto the consumers."

Now, I have to ask you, Ms. McCarthy, when the President has a little more flexibility, when he gets past November, do you anticipate that that flexibility will incorporate not only the existing, not only the future power plants, but existing coal-power plants and that new regulations will come forward on the existing plants at that time?

Ms. MCCARTHY. The regulations we announced are a commonsense step forward that look at regulating solely greenhouse gases emissions from future power plants. That is what is in the works. That is what we are taking comment on. It is not a cap, it is an emission rate that we relies on modern technology and that can be delivered today.

Mr. GRIFFITH. But when the President has more flexibility, if we believe his words, and we believe his words from his last campaign, don't you anticipate that he is going to make the costs rise on the use of coal and even natural gas, because they are both carbon-based fuels? Wouldn't you anticipate that? If you were sitting in my shoes watching your district being decimated in jobs across the board because the electricity rates don't just affect the coalmines and the coalminers and the people relying on coal. They affect every business in my district because in our area we are relying on coal at this time to produce every good that we produce.

Ms. MCCARTHY. Right now the flexibility that the President is allowing is allowing EPA to provide the public health benefits that the legislature asked us to deliver relative to the Clean Air Act. That is the kind of flexibility that I expect him to continue to provide.

Mr. GRIFFITH. And so when it comes to using of the carbon-based fuels, you expect less flexibility so that he can be more flexible in cleaning up the air and taking away the jobs of the hardworking American taxpayer. Is that correct?

Ms. MCCARTHY. The President was very clear that it is an All of the Above Strategy. The rule we propose——

Mr. GRIFFITH. All of the above but doesn't include coal. That is a four-letter word now, isn't it?

Ms. MCCARTHY. It allows a pathway forward for coal as well as natural gas.

Mr. SHIMKUS. The gentleman's time has expired.

The Chair now recognizes the gentleman with a birthday today from West Virginia, Mr. McKinley.

Mr. MCKINLEY. You would add that. Thank you, Mr. Chairman, and welcome back Ms. McCarthy. That last question perhaps needed a little bit more, but if we have time, we will get back to that, but it is interesting that you just, you said all of the above.

Ms. MCCARTHY. Yes.

Mr. MCKINLEY. And you have said I think earlier in your testimony about that the—for sequestration with coal, they could go ahead with sequestration, but I thought—did I, maybe I didn't hear correctly. Did you say there is an existing facility now with sequestration? You said there it is going on today?

Ms. MCCARTHY. There are facilities that are large-scale applications——

Mr. MCKINLEY. Can you share that? We don't have any—I have no listing of those commercial—could you send that to our office for someone to release that?

Ms. MCCARTHY. I most certainly will.

Mr. MCKINLEY. If you would. Thank you. But let us go back to the sequestration again, because in your testimony you are saying you believe in we should be pursuing the sequestration at a route to continue to use fossil fuels, coal particularly.

Ms. MCCARTHY. I think the administration——

Mr. MCKINLEY. But yet the DOE just cut the NETL's laboratory by 41 percent. So, you know, that is where the research and development for coal, that is where we have the plans for carbon capture and sequestration, which didn't get funded at all under this.

So can you share, do you agree with the DOE's idea to slash funding for coal research?

Ms. MCCARTHY. I am aware that there has been significant funding to——

Mr. MCKINLEY. No. My question was do you agree with it.

Ms. MCCARTHY. I am not aware of DOE's current plan——

Mr. MCKINLEY. You weren't aware that they cut it 41 percent.

Ms. MCCARTHY [continuing]. At NETL.

Mr. MCKINLEY. I just, I am astounded with that because I think the idea of using it is fine, but then to cut the research for it shows it is disingenuous on the part of this administration. They have, try to have it both ways.

Let me go to the economic models, because in your testimony on page two of ten you use a lot of statistics. You talk about the model year 2016, the cars will cost maybe only $950, but we have heard testimony from the EPA time and time again that it just—I really have to question your economic model. If you look at—if we could have up on the chart, the first one, you were predicting or the EPA was predicting that the grid reliability was only going to be 4 gigawatts, and everyone else was showing that they were in the 50 to 60 to 70 gigawatts of potential loss. We already had one company, First Energy, alone cut 4 gigawatts out of the system.

So there is your model. There is what you are saying—and I have got to question it.

Let me go to the second one having to do with heavy-duty trucks. In this chart this is from 2004, to 2010, the compliance you could see it in different years that it talks about in these charts, this one in particular, says in 2004, you, the EPA was predicting that the cost of compliance was only going to be $900 and some or less than $1,000, but in reality it was over $4,000. And in 2007, you were predicting, it might be $4,000, but in reality it was closer to $8,000, and then just 2 years ago you were, you all were predicting it was going to be just over $3,000, but the cost was $9,000.

Could I see the next chart?

Here is another one in 2010. This talks about your estimate was $3,400, but look down the list of all of these from Freightliner, International, Kenworth, Mac, Peterbilt, Volvo, Western Star are all in the $9,000 range, three times the amount that you all were predicting. I really question your ability to estimate and because we rely on those estimates. When the people on the other side of the aisle, we are trying to work together on this, and if your numbers are good, we want to work with them, but I come from the construction industry. When we give an estimate, we live with it.

Are you ready to live with it? If your estimates are wrong, are you going to reimburse the consumers for the cost that you have incurred because you have convinced Congress to adopt these heavy regulations because they are only going to cost $3,000, but in the real world it costs $9,000. Are you going to reimburse the consumers?

Ms. MCCARTHY. I believe that over the course of the last 40 years that EPA had done some of the best economic modeling available to any agency.

Mr. MCKINLEY. So you are disagreeing with all of your——

Ms. MCCARTHY. I do not have any idea what those charts were, who they developed them on, what basis. Those were not charts developed by the EPA, so if that information is available, we are happy to take a look at it and to provide you some input as to whether or not we believe it is accurate.

Mr. MCKINLEY. That is fair. I mean, I have got your number. So you just project——

Ms. MCCARTHY. We have retroactive——

Mr. MCKINLEY [continuing]. These numbers at $900, and we can see it is—and you are predicting that it is going to be $900 4 years from now.

Ms. MCCARTHY. And the only other thing I would like to clarify is that the retirement slide that you put up is we took great pains in the mercury and toxic standard to do that understanding the impacts associated with the utility industry. We knew that there were more than those retirements strictly as a matter of business decisions related to the market. What you are seeing closing are inefficient, old coal-fired power plants that cannot compete moving forward. I do not believe——

Mr. MCKINLEY. But everyone else——

Mr. SHIMKUS. The gentleman's time has expired.

Mr. MCKINLEY. I am sorry my time has elapsed, but everyone else had the same information, and they used more accurate—they came to a better conclusion than you did.

Thank you.

Mr. SHIMKUS. The gentleman's time has expired.

The gentleman from Kansas is recognized for 5 minutes, Mr. Pompeo.

Mr. POMPEO. Thank you, Mr. Chairman. Thank you for being here today. I am going to try and—I think these pieces of legislation are both good. I think there are a few things that could change, but I think they make good sense. I want to make sure and get a couple facts straight, Ms. McCarthy, about what you said in your testimony today and then I want to talk about your theory of regulation.

So you said nothing in these regulations has any impact on high gasoline prices. Is that correct?

Ms. MCCARTHY. We were speaking about the current gasoline prices. That is absolutely true.

Mr. POMPEO. Do you believe that both for the short term and the long term? That is do these regulations have you so—I have heard some trying to say, well, I can't do anything about tomorrow's gasoline prices. Do you think this impacts next week's or next year's or a decade's from now gasoline prices?

Ms. MCCARTHY. All I can tell you is that we have managed a number of fuel and vehicle programs over the years, and as far as we know the result of the impacts of those relative to gasoline prices is dwarfed by crude oil prices, by taxes, by other inputs that go into the price of gasoline.

Mr. POMPEO. I disagree. Do you think the same thing for electricity? So we talked about gasoline. Do you think these regulations have no impact on electricity prices in America because you have been talking about gas, now electricity.

Ms. MCCARTHY. Well, the regulations in——

Mr. POMPEO. I am just asking you about electricity. Do you think these regulations——

Ms. MCCARTHY. Are we talking about the——

Mr. POMPEO. I am talking about the cumulative set of regulations that EPA has pending and current. Do you think they impact—you have testified before. Do you think they impact electricity prices?

Ms. MCCARTHY. Only—I am trying to see how.

Mr. POMPEO. OK. So you think they don't, no impact.

Ms. MCCARTHY. I don't believe so.

Mr. POMPEO. The more the merrier.

I want to talk about your theory of regulation you mentioned. You said, hey, we are going to essentially put these new rules on new coal-fired power plants, but that is OK because no one is building them anyway.

Ms. MCCARTHY. That isn't my theory. That is an analysis by the Energy Information Office and EIA, and they are the ones that have done modeling, that took a look at what power plants are being constructed, and it is really on the basis of market conditions, what is competitive.

Mr. POMPEO. Right. So your justification for this set of—this greenhouse gas rule that you have presented yesterday is that it is OK because no one is building——

Ms. MCCARTHY. No, no. That was how we analyzed the result of the cost and benefits. The reason for regulating greenhouse gases from power plants is because greenhouse gases pose a danger to public health and welfare, and they are a regulated pollutant, and as a regulated pollutant under the Clean Air Act we must move forward with new source performance standards. That is why we did the rule.

Mr. POMPEO. So why do you talk about that? Why do you talk about what the market might or might do in response? You just throw it out there as a justification to explain to the American people?

Ms. MCCARTHY. No. It is part of the economic analysis that you are interested in us pursuing——

Mr. POMPEO. Right.

Ms. MCCARTHY [continuing]. Was to look at what are the costs and benefits as a result of the rule.

Mr. POMPEO. Right.

Ms. MCCARTHY. We are required to regulate greenhouse gases, we have tried to do that in a reasonable way, we have identified costs. What is clear is that because of the availability of natural gas in the low cost, that coal is not competitive at this moment, so it is not anticipated that these rules would have a significant cost impact. That is what we have identified.

Mr. POMPEO. I appreciate that. You say coal is not competitive. I will tell you compared to solar, compared to wind, compared to all the things that you are taking taxpayer money to throw re-

sources at, I will promise you that coal is intensely competitive. It is why we are using it in America today. It is because consumers care about their rates. You haven't talked about ratepayers one moment today. You haven't talked to the fact that ratepayers all across America may or may not know it but they are thrilled that we are using coal-fired power plant generation in America today because it allows them to continue to take care of their families and heat their homes and cool their homes and all the things that consumers care about.

Manufacturers care about it, too. They need to make sure they have affordable electricity as well. As you continue to foreclose these facts, and I have heard others, depending on how you count them, 13 to 15 different sets of rules and regulations just in my time in Congress that you all have imposed on the fossil fuel industry and to sit here today and tell me this isn't going to impact costs for consumers and costs for businesses and jobs in America, I just think it is Alice in Wonderland, and I will yield back the balance of my time.

Mr. SHIMKUS. The gentleman yields back.

The gentleman from Louisiana is recognized for 5 minutes.

Mr. SCALISE. Thank you, Mr. Chairman. I appreciate the time, appreciate the panel.

Coming today I think it is important that we continue to talk about energy policy in this country and different proposals that we brought forward in the House and passed in the House that actually would increase energy production, implement a real All of the Above strategy, and lower gas prices at the pump. It is unfortunate that the Senate has blocked that legislation. It is unfortunate the President continues to oppose that, and that gets into my questions.

Mr. Abbey, in your opening statement you made a number of comments I want to go through, but you said, "This is why the President and the Department has continued to promote and implement an All of the Above approach to American energy." And I know the President said that out on the campaign trail a lot. He has, you know, taken the language that we have been using. We have actually filed an All of the Above Bill, passed All of the Above legislation, and now the prices are going higher. The President is feeling the heat from his policies, and so he is trying to say that he is for All of the Above, and unfortunately, if you look at the record, it just doesn't back up that the President or your agency supports an All of the Above strategy.

I want to start with the moratorium in the Gulf of Mexico. You know, in my area we have seen since the, not only the moratorium, but even after the moratorium was lifted, there is still what people consider a permatorium in the Gulf of Mexico. It is very difficult to have any kind of consistent policy out of Department of Interior that allows people to go back to work. We have seen about a dozen deep water rigs leave not only the Gulf of Mexico but leave the United States, left this country, taken about 12,000 jobs with it. That number is now up to about 19,000 jobs.

And I am not sure if you have seen this, I hope you would go look if you haven't, a group called Greater New Orleans, Inc., which is an alliance of business organizations in the New Orleans

region, did a study called the "Impact of Decreased and Delayed Drilling Permit Approvals on Gulf of Mexico Businesses," and I am not sure if you have seen it. I would like to submit this for the record if I could ask unanimous consent to have this report issued.

Mr. SHIMKUS. Without objection.

[The information follows:]

The Impact of Decreased and Delayed Drilling Permit Approvals on Gulf of Mexico Businesses

January 30, 2012

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Acknowledgements

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Many people participated in the data collection process and contributed their time and energy to *The Impact of Decreased and Delayed Drilling Permit Approvals on Gulf of Mexico Businesses.* For their contributions, we wish to acknowledge the following: Jan Brunet, Stanley E. Jones, Gina Klein, Malcolm Lincoln, Patricia Smith, Jeffery Pelas, Kenneth Davis, Peter L. Kazunas, Rick Taylor, Esco Benton, Ryan Hanemann, Al Baker, James Barse, Zack Giroir, Pat Bernard, Hans Jonassen, Andy Naquin, Judy Davis, Michael DiSalvo, Matthew Mancheski, Joseph Brady, Albert Cheramie, Richard Currence, Michael F. Vitt, John Ryan, Bart Moore, Christian Brugman, Robert J. Leshe, Jamie Trosclair, Merritt Lane, Andre Dubroc, Jeff Bockmeyer, Charles Green, Roy Breaux, Garrett Rice, Dan Gaiennie, Ken Wahl, Kenneth Dennis, Nat Collins, Wade Cheramie, Erik Dreijer, F. Wade Abadie, Bruce Callais, Trace Laborde, Kurt Bertsch, Jack Jowers, Beau Bisso, Edward Schreiber, Chris Staszak; as well as the dozens of individuals and companies who participated anonymously. Additionally, numerous industry and trade associations assisted in survey distribution, without which this study would not be possible.

greater new orleans inc

Executive Summary

Greater New Orleans, Inc. conducted this research with the purpose of documenting the "hidden victims" of the oil & gas drilling permit moratorium and slowdown in the Gulf of Mexico –the off-shore supply and service companies which are dependent upon the Gulf of Mexico for business. Data was collected using an online survey completed by Louisiana off-shore supply and service companies (n = 102). Industry of respondents' affiliation ranged from health and safety, to transportation, to oil & gas production. Marine services and ship owners/operators tied for the most respondents (29.4% each). The majority of respondents' corporate headquarters are located in Louisiana.

Key Findings

41% of businesses are not making a profit.

76% of businesses have lost cash reserves.

27% of businesses have lost more than half of their cash reserves.

50% of businesses have laid off employees as a result of the moratoria.

39% of businesses have retained workers but reduced salaries and/or hours.

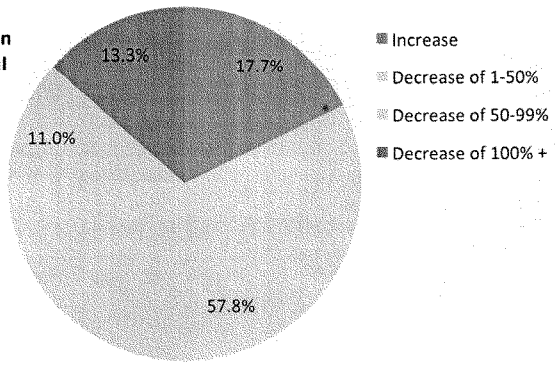
65% of businesses have not hired, or just replaced lost workers.

46% of businesses have moved all or some of their operations away from the Gulf of Mexico.

82% of business owners have lost personal savings as a result of the permit slowdown.

13% of business owners have lost all of their personal savings as a result of the slowdown.

Impact of the Moratoria on Business Owners' Personal Savings



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Background

On April 20, 2010, the *Deepwater Horizon* oil rig exploded in the Gulf of Mexico, killing 11 people and triggering the largest oil spill in United States history. On May 30, 2010, the U.S. Department of the Interior Minerals Management Service issued a six-month moratorium on all new and existing deep-water drilling, effectively shutting down oil and gas industry operations along the Gulf Coast. The policy halted approval of any new permits for deep-water drilling and suspended production in the Gulf, affecting 33 rigs operated by large oil and gas companies and thousands of small- and medium-sized businesses that support oil and gas production. With 88% of U.S. offshore rigs located on Louisiana's Outer Continental Shelf (OCS)[1], Louisiana businesses and coastal communities felt the majority of the moratorium's impact.

While the official halting of operations only included deep-water drilling (in depths of over 500 ft.), Greater New Orleans, Inc. (GNO, Inc.) found in January 2011 significant implications for shallow-water drilling as well.[2] U.S. Department of Interior Secretary Ken Salazar said, "...the administration will not have a moratorium on shallow-water operations," but promised "additional safety requirements and additional inspections." These additional regulations have resulted in a sharp decline in shallow-water permits, putting an economic strain on small businesses. Unlike deep-water wells, which are drilled over months due to their complexity, shallow-water wells are usually completed in three weeks. Due to the short timeframe of production activity, the shallow-water drilling industry relies on a constant flow of permits to keep companies in business.[3]

On October 12, 2010, the U.S. Department of Interior's Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE, the renamed Minerals Management Service) announced that the federal government would lift the drilling moratorium.[4] In addition to its Economic Impact Study, released after the Deepwater Drilling Moratorium was lifted, GNO, Inc. continued to monitor and report on deep- and shallow-water permit issuance through the Gulf Permit Index (GPI). GNO, Inc. researchers aggregate public data from BOEMRE – now BOEM and BSEE – into graphs which are updated and distributed monthly, via websites and email distribution lists. The GPI documents that both deep-water and shallow-water permit issuance continue to lag the previous year's average. This research has been utilized by industry professionals, private firms, and elected officials.

[1] LED http://www.louisianaeconomicdevelopment.com/opportunities/key-industries/energy.aspx
[2] Source: Greater New Orleans, Inc. *An Economic Impact Study of the Deep-water Horizon Oil Spill. Part II: Moratoria* January 2010.
[3] May 27, 2010. Alpert, Bruce and Rebecca Mowbray. "President Barak Obama suspends drilling at 33 wells in the Gulf of Mexico." The Times-Picayune, New Orleans. *An Economic Impact Study of the Deep-water Horizon Oil Spill. Part II: Moratoria* January 2010.
[4] BOMRE has since been divided into Bureau of Ocean Energy Management (BOEM) and BSEE (Bureau of Safety and Environmental Enforcement).

GPI+ as of January 3, 2012

Deep Water Permits

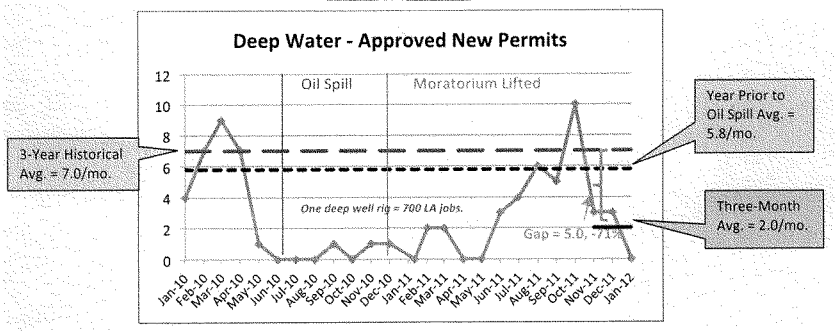

Figure 1. Over the past three months, an average of 2.0 deep water permits are being issued per month, representing a decrease of 66% from the monthly average observed in the year prior to the oil spill, and a decrease of 71% from the historical monthly average of 7.0 new deep water well permits.[5]

Shallow-Water Permits

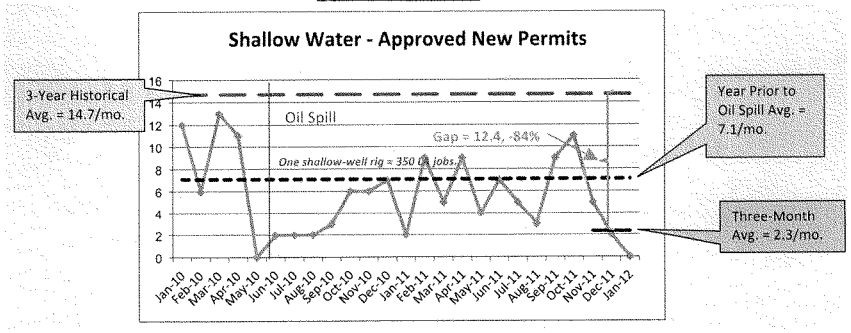

Figure 2. Over the past three months, an average of 2.3 shallow-water permits are being issued per month, representing a decrease of 68% from the monthly average observed in the year prior to the oil spill, and a decrease of 84% from the historical monthly average of 14.7 new shallow-water well permits.

[5] Source: BSEE and BOEM data

GPI+ as of January 3, 2012

Plans

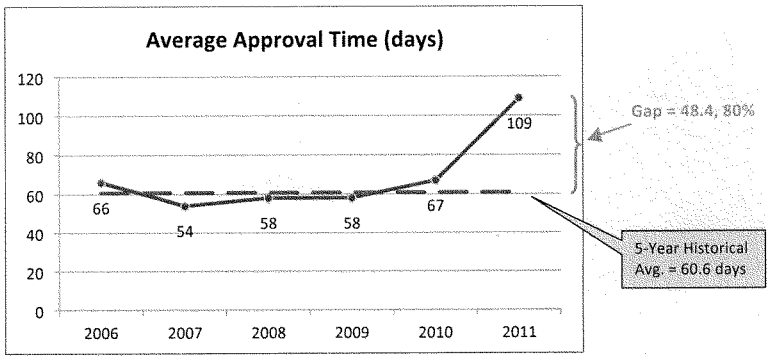

Figure 3. In 2011, the average approval time for a plan was 109 days, representing an increase of 80% from the historical average of 60.6 days. Since the oil spill, all deep-water plans that include any type of drilling activity must undergo an environmental assessment (EA) process; for deep-water plans requiring EAs in 2011, the average approval time was 213 days, significantly higher than the overall average approval time.

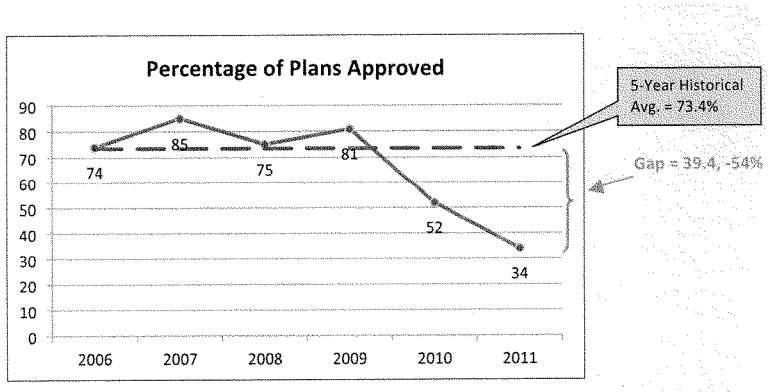

Figure 4. In 2011, 34% of plans submitted to BOEMRE were approved, representing a difference of 54% from the historical 73.4% approval rate. The low approval rate in 2010 is largely due to the moratorium which existed from May 31 to October 12, 2010.

Greater New Orleans, Inc. (GNO, Inc.) is the regional economic development agency serving the 10-parish region of Southeast Louisiana. GNO, Inc.'s mission is to create jobs and wealth in the Greater New Orleans region. To this end, GNO, Inc. pursues a two-pronged strategy: *business development* – attracting and growing businesses – and *product development* – creating better business conditions via policy, workforcem and other initiatives. GNO, Inc.'s efforts focus on three foundational sectors: Advanced Manufacturing, Energy, and International Trade; and three diversifying sectors: Software and Digital, BioSciences, and Sustainable Industries. In 2011, GNO, Inc. was named one of the Top 20 economic development organizations in America by *Site Selection* magazine.

The economic impacts of this permit slow-down (in effect *de facto* moratorium) are diverse and far-reaching, affecting individuals and businesses in various industries across the Gulf Coast.[6] While small businesses provide critical services and support within the oil and gas industry, they sometimes face the challenges of limited experience, insufficient capital, and location restraints.[7] Large companies in the oil and gas industry may have access to greater capital, a specialized workforce, and geographic diversity.

This is a particular problem for Louisiana, because ours is an economy largely made up of small businesses. Many Louisiana businesses are family-owned and employ immediate and extended family members, thus, downturns in business activity negatively impact not only the businesses, but also entire families who sometimes have no other work experience or source of income.[8] In Louisiana, 98% of businesses are small, according to SBA guidelines—employing fewer than 500 people, with 88% employing fewer than 20 workers.[9] These businesses provide goods and services to larger businesses, to each other, and collaborate to accomplish larger projects.

In Louisiana, there are more than 1,777 small businesses in the Oil and Gas Extraction industry that represent over $4.2B in annual revenue.[10] Their operations also support over 9,700 employees, and aid in increasing our country's energy security.[11] Additionally, businesses in diverse industries such as manufacturing, transportation, and food service rely on income generated by contracts and business from companies and workers in the oil and gas industry. It is extremely challenging, and an imperfect science, to try to count all of the businesses that indirectly support the oil and gas industry—they represent nearly every industry sector. These businesses support potentially tens of thousands of workers.

[6] For the sake of linguistic diversity, the lingering impacts of the Federal Deep-water Drilling Moratoria, the decrease in deep-water and shallow-water drilling permit approvals, and the increase in processing and approval times for plans and permits will be referred to in this document as both "the moratoria" and "the permit slow-down."
[7] Ames, Michael and Norval Wellsfry. Small Business Management. West Publishing Co.
[8] Source: Greater New Orleans, Inc. *An Economic Impact Study of the Deep-water Horizon Oil Spill. Part II: Moratoria* January 2010.
[9] Source: Info Group, Inc.
[10] Oil and Gas Extraction includes: Crude Petroleum & Natural Gas; Natural Gas Liquids; Drilling Oil & Gas Wells; Oil & Gas Field Exploration Services; and Oil & Gas Field Services Nec.
[11] Source: Info Group, Inc.

According to Economic Modeling Specialists, Inc. each direct job in the oil and gas industry (NAICS 213111 and 213112) supports 1.64 indirect jobs. Therefore, the 9,724 employees in Louisiana's oil and gas extraction industry support an additional 15,947 jobs, totaling 25,671.

When the Federal Deep-water Drilling Moratorium was enacted, communities of Southeast Louisiana feared widespread lay-offs, as drilling in the Gulf of Mexico is a critical component of local economies, especially in the New Orleans and Houma regions. At first blush, the overall Louisiana Mining industry employment does not seem to be as impacted by the permit slow-down as expected. Yet, despite the relatively limited employment losses reflected in public employment data, this study provides evidence that businesses are indeed laying off workers, reducing hours and salaries, and limiting new hires as a result of the permit slow-down and insecurity about future markets in the Gulf of Mexico. Forty-nine (48% of all surveyed) companies reported laying off workers. Sixty-five (65.6%) companies surveyed reported no hiring or only replacement of lost employees. Of the companies that did hire, numbers were generally low with only one company reporting hiring over 50 workers in the last year. Some businesses have been cutting costs by reducing employees' hours and/or salaries. Thirty-eight companies reported reducing hours and salaries of employees, sometimes as much as 40% in order to avoid lay-offs.

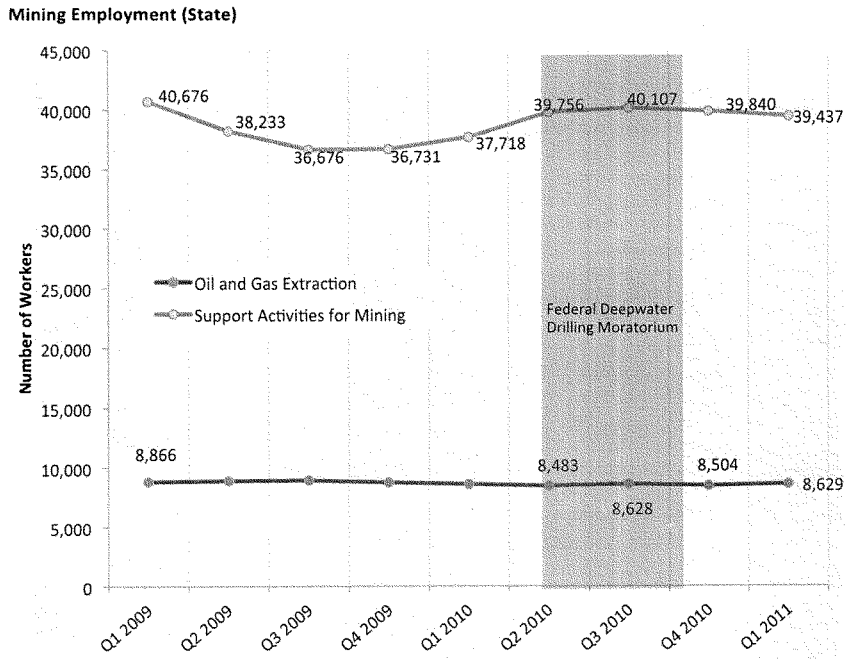

Figure 5. From May 2010 to March 2011 employment in Louisiana Oil and Gas Extraction industry has gained 174 jobs. The Support Activities for Mining has lost 55 jobs.[12]

The state of Louisiana has not seen significant job losses that can be directly attributed to the Federal Deepwater Drilling Moratorium and subsequent *de facto* moratorium. This is due to the dynamic nature of the oil and gas industry and perhaps the increased fracking activity in North Louisiana. According to an article published in *ProPublica*, much of the growth in the oil and gas industry since 2009 has come from drilling into shale formations.[13] Several survey respondents mentioned hiring new workers for shale work, and the Haynesville Shale activity in North Louisiana may have mitigated some of the employment decreases resulting from decreased activity in the Gulf of Mexico. The New Orleans MSA (containing the following parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, and St. Tammany) and the Houma Region (containing the following parishes: Assumption, Lafourche, and Terrebonne) have experienced the greatest losses in mining industry employment.

[12] All public employment data was sourced from the Louisiana Workforce Commission's Employment and Wage Data.
[13] Source: Kusnetz, Nicholas. September 2011. Who Are America's Top 10 Gas Drillers? *ProPublica*.

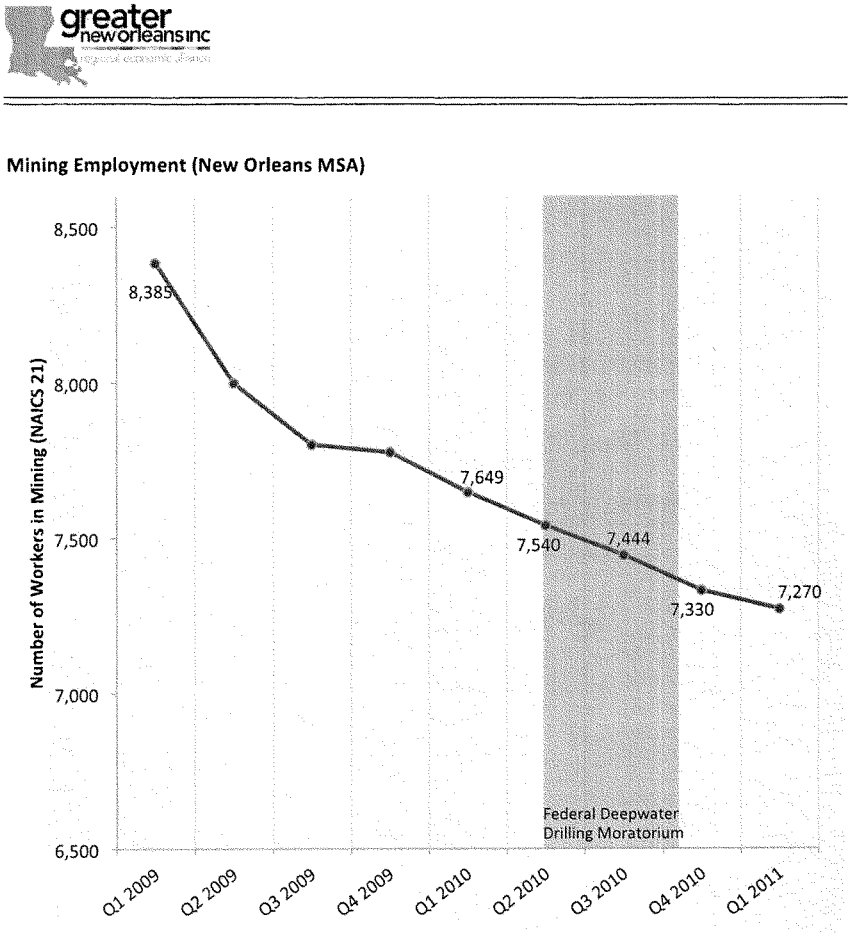

Figure 6. From May 2010 to March 2011 employment in the New Orleans MSA Mining industry has lost 225 jobs.

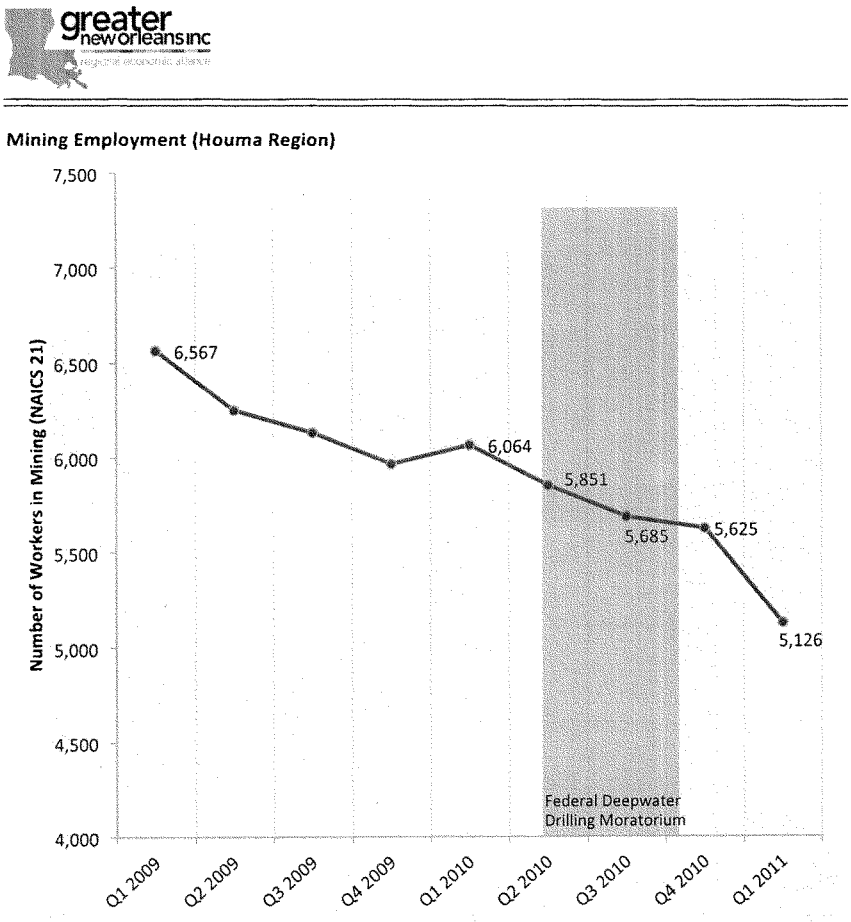

Figure 7. From May 2010 to March 2011 employment in the Houma Region Mining industry has lost 639 jobs.

Federal employment numbers suggest that employment in Mining sectors has not decreased significantly since the moratoria and more stringent regulations placed on deep and shallow-water drilling. Indeed, official data suggest that 174 jobs in Oil and Gas Extraction have been gained in Louisiana from May 2010 to March 2011. Support Activities for Mining in Louisiana has lost only 55 jobs since the onset of the moratoria. Federal statistics are not sufficiently precise to determine the impacts of the moratorium, when jobs may be lost in one industry in one part of the state (for example, oil extraction in Southeast Louisiana) while jobs are being gained in another similar but unrelated industry in another part of the state (shale plays in North Louisiana). Abundant anecdotal evidence abounds in Southeast Louisiana about the hardships faced by businesses and workers since the onset of the moratorium and more stringent regulations on oil extraction; GNO, Inc. set about to investigate these claims.

Methods

GNO, Inc. undertook a research initiative to determine the past effects of the Federal Deepwater Drilling Moratorium as well as the ongoing impacts of the decreased permit approval for deep- and shallow-water drilling permits on small businesses in Louisiana. An online survey, reviewed by business leaders and industry experts, was developed to gauge the impacts of the permit slowdown on businesses that work in Louisiana.[14] Topics included: impact on revenues and cash reserves, lay-offs and hiring, changes in business plans or target markets, and impacts on the personal finances of business owners. Both multiple choice and short answer questions were included. We solicited the assistance of numerous trade organizations, local economic development organizations, and individuals to distribute this survey using the online platform SurveyMonkey.[15] The survey was open from November 3, 2011 to January 3, 2012 and received responses from 102 individuals representing 99 companies.

The survey was distributed by multiple business associations including: South Louisiana Economic Council, South Central Industrial Association, Outer Continental Shelf BBS, Offshore Marine Services Association, and Plaquemines Association of Business and Industry.

Due to the multi-pronged distribution strategy, the total number of recipients is unknown and, thus, a response rate could not be calculated. Nonetheless, 100 survey participants represent a sizable sample if not a random sample. Still, it is important to note that as a convenience sample, it is likely that results are subject with non-response bias, with businesses that were negatively affected by the moratoria more likely to participate than those that experienced no effect or positive effects.

Participants had the opportunity to provide contact information following survey completion, which 53 respondents did, while 49 chose to remain anonymous. Quotes were chosen to represent the diverse impacts of the permit slowdown on a variety of businesses, and approval to publish was secured from identified companies.

[14] See Appendix A for survey questions.
[15] Produced by SurveyMonkey.com, LLC.

Profile of Survey Respondents

Survey respondents varied by industry, headquarter locations, and size; however, they all worked in Louisiana and identified unique impacts resulting from the Federal Deepwater Drilling Moratorium and the ongoing permit slowdown. Forty-seven (47.5%) surveys were completed by business owners—the rest were answered by employees of the companies at various levels, often executive.

The most common industries were: Marine Services, Ship Owners and Operators, Other, Oil and Gas Production, and Deep Sea Transportation. Respondents had the option to choose more than one industry. The 102 respondents selected 228 industries—an average of slightly more than two industries per company. This indicates a relatively high level of specialization within the participating companies.

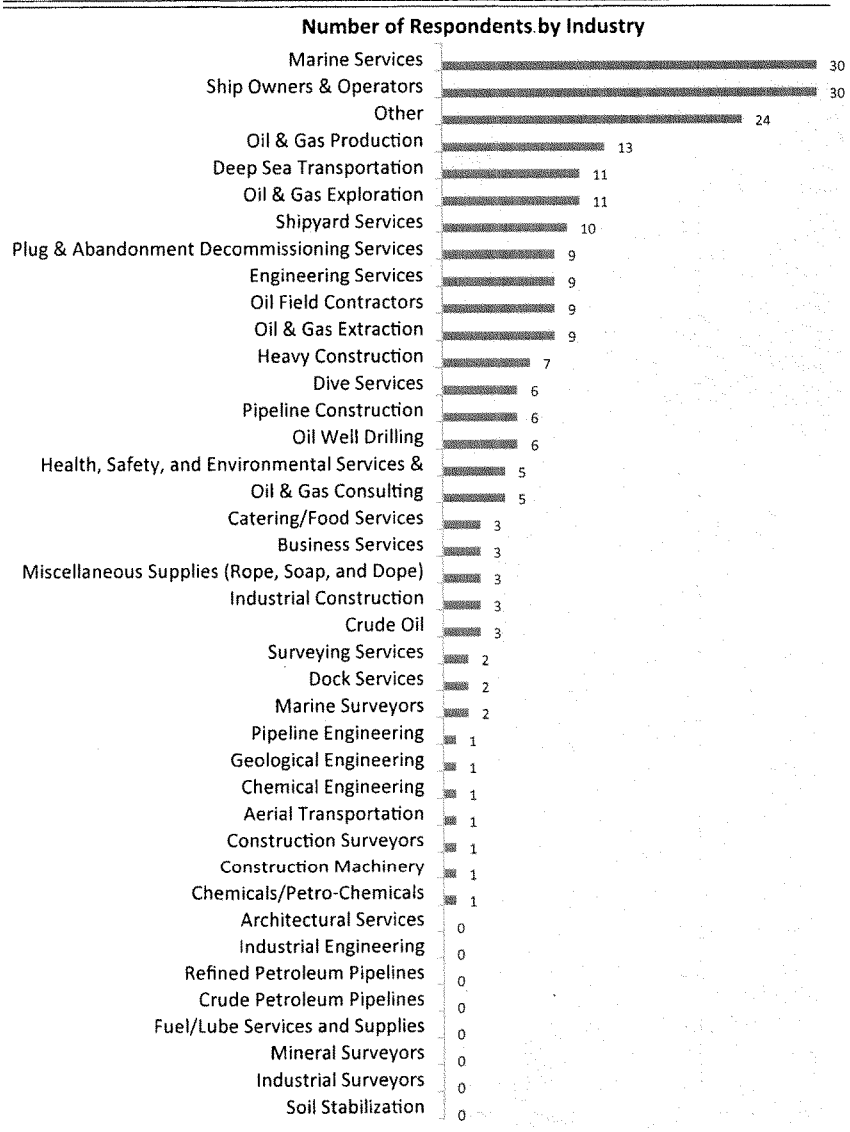

Figure 8. Number of survey respondents by industry. Other includes: Furnishing Heavy Construction Materials (Supplier); Industrial Real Estate; Design & Drafting Services; Software; Training; Industry

Support; Well Intervention (Wireline, Hydraulic Workover, Coiled Tubing, Rentals, etc.); Major Machinery Distributor; Mooring and Rigging; Fleet Management; Legal consultants/attorneys; Tug Boat Services; Marine Equipment Manufacturer; Marine Transportation; Engine Distribution; Propulsion Machinery Manufacturer; Marine Educational Services; and Legal.

The majority of respondents to this study are headquartered in Louisiana, with other locations in the Gulf Coast representing 32 percent of respondents. Seventeen businesses were headquartered in Texas. To be eligible to respond to the survey, the business had to have operations in Louisiana.

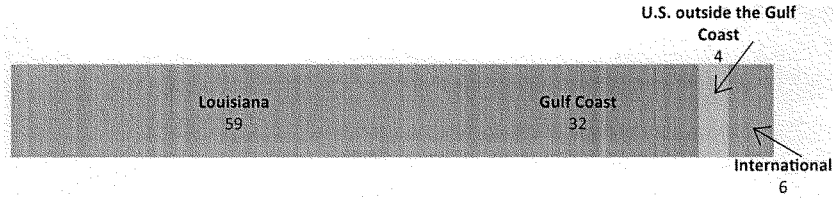

Figure 9. Location of respondents' corporate headquarters. Number of respondents for each location is listed.

Our sample set was composed mostly of companies that rely heavily on the resources of the Gulf of Mexico, with over 65% of companies spending 80-100% of their time and effort in this area.

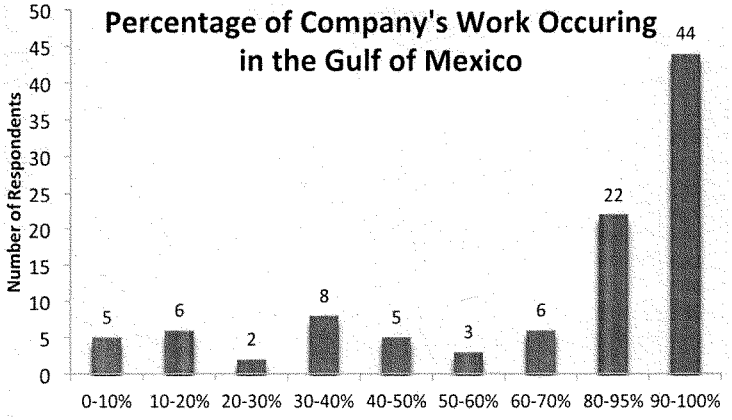

Figure 10. Number of respondents based on percentage of work occurring in or on the coast of the Gulf of Mexico. Based on the multiple choice question: "What percentage of your company's work occurs in the Gulf of Mexico or along its coast?"

In order to better understand the impact of delays in deep-water and shallow-water permitting, we requested that businesses identify at which depths they worked most of the time. Over half of respondents said they worked in both deep- and shallow-water. Businesses that chose "Neither" provide support services for a variety of companies, work exclusively on land manufacturing equipment, provide industry training, and/or service offshore vessels. Respondents that work exclusively in deep-water are in the Oil and Gas Extraction and Oil and Gas Exploration industries. These six companies range in size from small to large. Respondents that work exclusively in shallow-water identified operations in a variety of industries and tend to be smaller with a maximum annual revenue of $250M.

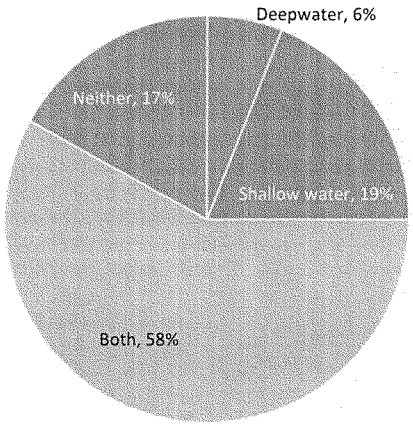

Figure 11. Percent of businesses that spent the majority of their time and effort in deep or shallow-water.

We also requested annual revenue information of partipicants. The given range was from $100,000 to over $1B annually and our sample includes companies at both ends of this range.

Annual Revenue of Participating Companies

	Mean	Median	Mode
Pre-Oil Spill	$136.5M	$15M-$25M	$5M-$15M
Currently	$104.5M	$5M-$15M	$5M-$15M
Change	-$32M	-~$10M	

Chart 1. Mean calculation was made using the mid-point value of each range identified and the one value identified for each end point. For example, calculations including the range $15M-$25M were conducted using $20M.

Impacts on Revenues and Cash Reserves

Anecdotal evidence suggested that changes to companies' annual revenues and cash reserves would be one of the impacts of the moratoria and permit slowdown. Our survey revealed that the annual revenues of nearly all businesses surveyed decreased or remained constant since the Deepwater Horizon Oil Spill and the Federal Deepwater Drilling Moratorium. The results also indicate an increase in the number of businesses with low and medium revenues (under $100,000 to $5M) and a decrease in the number of businesses with large revenues ($50M to over $1B).

While we did not see evidence of a formerly large revenue company decreasing revenues to the extent they would be included in the low to medium revenue range, one company reported an annual revenue range of $750M-$1B before the moratoria decreasing to $50M-$250M after the moratoria—representing a decline of at least $500M. Additionally, two companies transitioned from the $250M-$500M range to the $15M-$25M range. The losses of these three companies alone (total of at least $950M annually) represent a tangible economic loss to communities in Southeast Louisiana that rely on larger companies for subcontracts and constant demand for services.

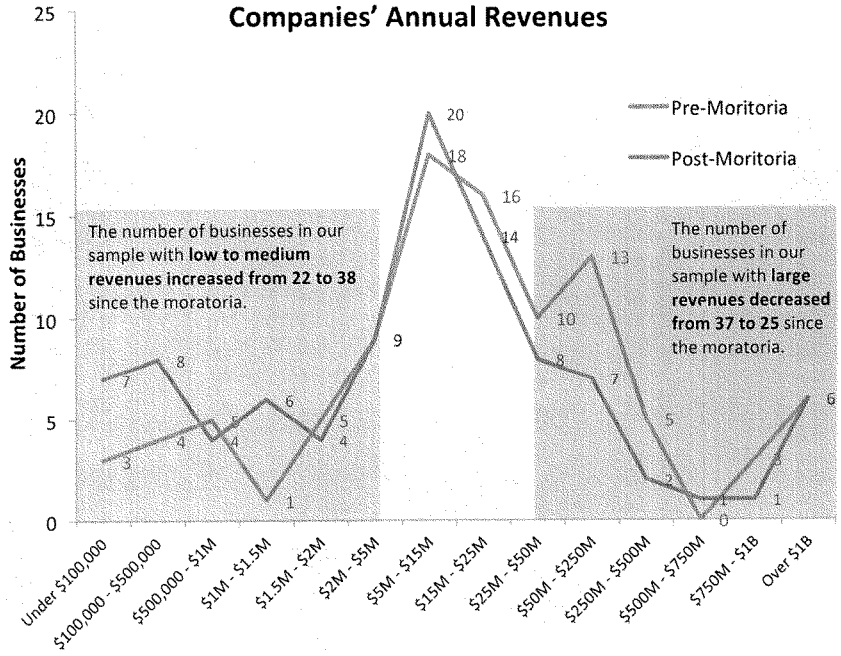

Figure 12. Annual revenues of participating businesses before and after May 30, 2010.

In addition to annual revenues, the level of cash reserves of companies can indicate their general economic health and impact of the moratoria. Over seventy businesses (69%) reported decreased cash reserves with forty-four having lost more than half.

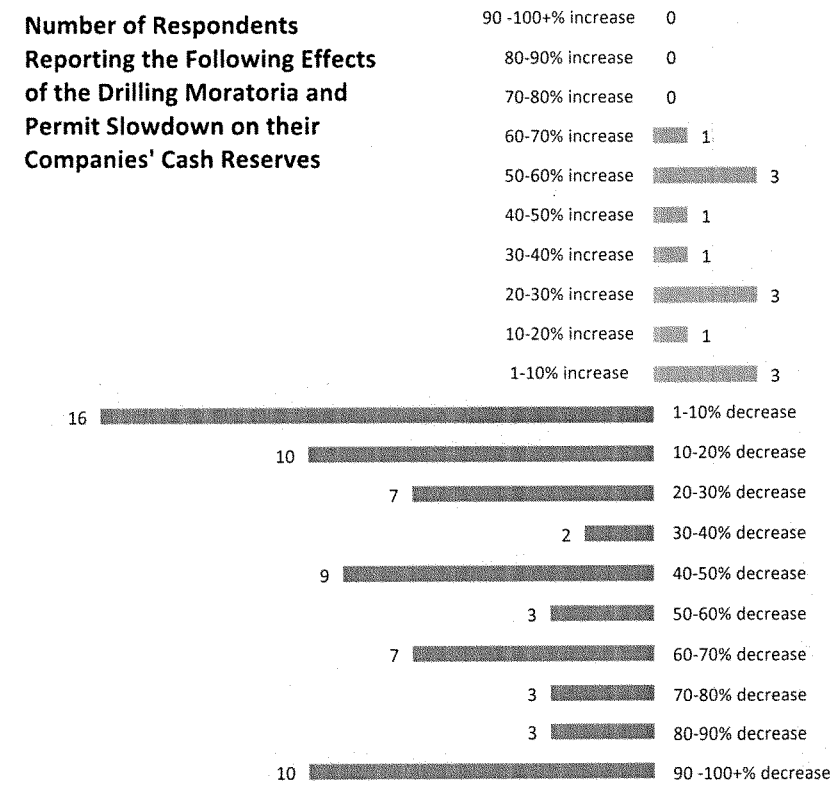

Figure 13. The majority of businesses have lost some cash reserves— 44 businesses (43%) have lost more than half of their cash reserves as a result of the permit slow-down.

Forty businesses (40.8%) are currently not making a profit—a situation that is not sustainable for any business and significantly increases the probability of small businesses closing. Indeed, of these forty, four companies reported selling all their assets and/or going out of business as a result of the moratoria. A transportation company in Iberia Parish described it this way: "Many of the companies we work for have scaled back their drilling operations making work scarce at best. Costs of training associated with safety have increased 75%, meanwhile the competitive

nature of the lack of work has driven daily vessel rates down. Because there is no stability in the work available we cannot offer any of our employees stability in their job regardless of their performance or service." Another company reported being forced to use $1.2M of their cash reserves to keep operations running due to lack of work.

While large companies may represent the most significant economic impact, the decrease in revenues of small businesses has the potential to be devastating to individual families and communities. Additionally, small businesses in the oil and gas industry face challenges, such as limited resources, lack of skilled people in specialized fields, and restricted schedules and mobility.[16] The small business networks that support oil and gas extraction and production are critical to the Gulf Coast industry's infrastructure, providing specialized services and employment for thousands. The dramatic decrease in many companies' cash reserves indicate an ongoing struggle to stay in business.

[16] Source: Arku, Frank S. and Cynthia Arku. September 21, 2010. The up and down sides of oil and gas development in the Wood Buffalo Region of Alberta, Canada: Positioning Ghana for progressive gains. *International NGO Journal.* Vol. 6(1), pp. 005.

Employment

Despite the relatively limited employment losses reflected in public employment data, this study provides evidence that businesses are laying off workers, reducing hours and salaries, and limiting new hires as a result of the permit slowdown and insecurity about future markets in the Gulf of Mexico. Forty-nine (48% of all surveyed) companies reported laying workers off. Sixty-five (65.6%) companies surveyed reported no hiring or only replacement of lost employees. Of the companies that did hire, numbers were generally low with only one company reporting hiring over 50 workers in the last year. Some businesses have been cutting costs by reducing employees' hours and/or salaries. Thirty-eight companies reported reducing hours and salaries of employees, sometimes as much as 40% in order to avoid lay-offs. These reductions in hours are not reflected in state employment numbers as discussed in the "Background" section.

Public data combined with evidence of lay-offs from our survey indicate that the moratorium and permit slowdown contributed to the decline in mining employment in the New Orleans MSA and Houma Region. Unfortunately, public data does not allow for tracking of commuter patterns or relocation of workers by industry—it is possible that some workers who lost jobs in Southeast Louisiana have been successful in finding employment in North Louisiana where the number of jobs in the mining industry has increased.

Forty-nine companies in our survey have laid off employees as a result of the moratoria. Of this group, many are doing so in small increments and trying to retain employees as long as possible.

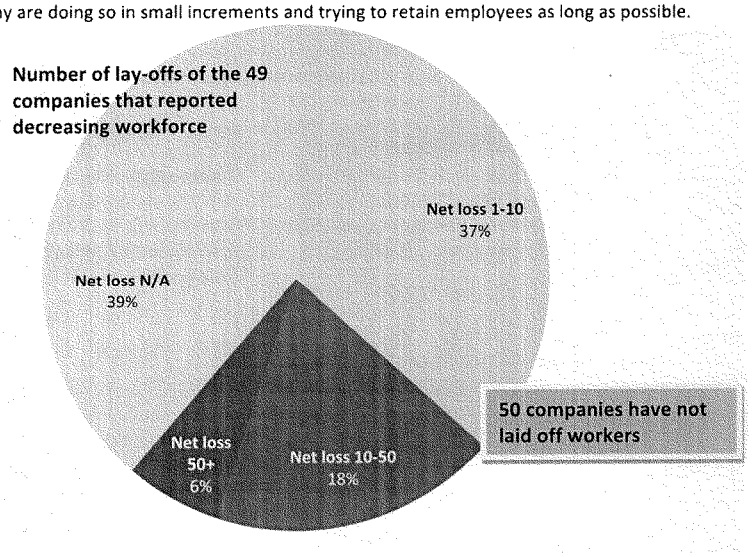

Figure 14. Of the companies that reported layoffs, 18 reported letting one to ten employees go, nine companies laid off between ten and fifty workers, and three companies laid off more than fifty. Three companies that did not provide an exact number and that they released their entire staff.

Companies reported releasing workers in the following positions (in approximate decreasing order of number of positions lost):

- Office Staff
- Vessel crews
- Fleet/Vessel/Barge/Boat crews
- Deckhands
- Management personnel/Supervisors
- Sales clerks/Salesmen
- Logistical personnel
- Field personnel
- Crew members
- Captains
- Welder
- Engineers
- Able Bodied Seamen
- Geoscientists/ Geologists/Geophysicists
- Riggers
- Mate
- Fitters
- Technicians
- Assemblers
- Janitor
- Driver
- Mates
- Executives
- Warehouse personnel
- Marketing manager
- Programmers
- Marine personnel
- Shipyard personnel
- Field labor
- Ordinary seamen
- Grinders
- Mechanics
- Port captain
- Maintenance personnel

Fifty-two businesses (52.5%) surveyed have not hired new employees since the moratoria. Of the 47 companies that have hired, the majority have done so in small numbers and often to replace departing staff.

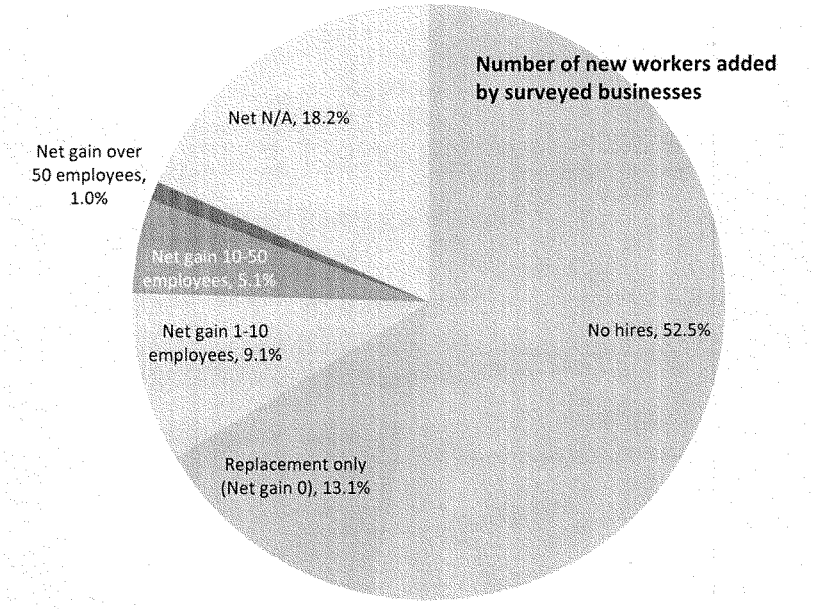

Figure 15. Of the companies that reported hiring, 13 reported replacement only (with a net gain of 0 jobs), 9 companies reported a net gain of 1-10 workers, 5 companies created between 10 and 50 new positions, and one company added over 50 new workers.

Of the companies that reported a net gain of workers, they reported hiring the following positions (in approximate decreasing order of number of positions gained):

- Engineers
- Draftsmen
- Clerical
- Accounting
- Drilling engineers
- Drill site managers
- Deckhands
- Supervisors
- Sales clerks
- Human Resources
- Technicians
- Accountants
- Tool operators
- Mates

- Programmers
- Production workers
- Crewboat captains
- Welders
- Pipefitters
- Associates
- Mechanics
- Office Staff
- Captains
- Welders
- Fitters
- Grinders
- Vessel crews
- Safety personnel
- Service engineers
- Senior Vice President
- Warehouse worker

Two companies reported hiring for shale work (a Louisiana engineering company for the land Eagle Ford Shale and BESCO Tubular for Marcellus Shale plays), and two reported hiring for operations outside of Louisiana.

One tactic that businesses have used to reduce costs but retain workers is to cut hours and/or salaries. Thirty-eight participants (38.8%) have retained workers but reduced staffing costs. Some companies have targeted certain positions while others have distributed the losses among staff members. One marine company headquartered in Texas reported "All vessel personnel have taken pay reductions, some executive level employees have given up salary and bonus packages and other employees have given up bonus and commission revenues." One Louisiana company that provides a variety of services to the oil and gas industry chose to cut all salaries by 30% to avoid lay-offs. Past experience has taught companies to resist lay-offs as long as possible as the quality of their workforce is critical to future success. A Louisiana ship owner explains: "Regardless of adjustments in population and wages, we continue to use capital to subsidize... Our trained and loyal workforce is too valuable to let go. This [was] supposed to be a 'pause,' not a shut down." A Louisiana transportation company reported the challenges of operating following lay-offs: "We have been forced to incur layoffs, at times, up to 50% of our work force. As such, even for small contracts we have to hire people back temporarily. Because we cannot offer job security many of our more talented workers are forced to look for work elsewhere. This forces us to compromise on some of the quality of our workforce which in turn drives of intangible cost of operation up [sic]." Underemployment is not reflected in unemployment numbers, yet can have significant impacts on individuals and families.

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Changes in Business Plans

Surveyed companies reported changing their business plans, sometimes dramatically, in account of the moratoria. Strategies include: reallocation of resources, lay-offs, reducing hours, selling equipment, relocation, and diversification. As a result of the moratoria, 46.4% of businesses have moved all or part of their operations away from the Gulf of Mexico.

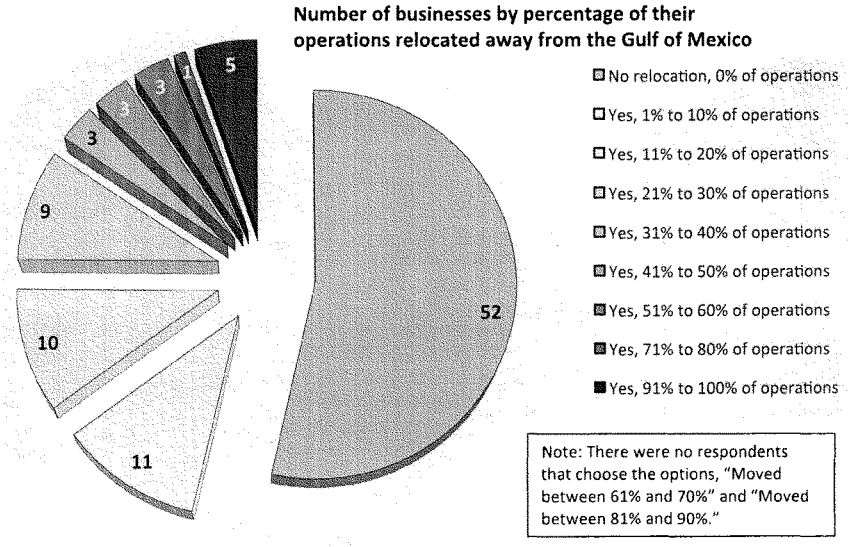

Figure 16. Forty-five businesses surveyed reported moving all or some of their operations away from the Gulf of Mexico, nine of which have moved more than 50% of the 5 businesses that have completely disinvested in the region, three are headquartered in Louisiana, and all were conducting at least 60% of their business in the Gulf—with three reporting 100% of their work happening in the Gulf. Before the Federal Deepwater Drilling Moratorium, these five businesses represented a collective annual revenue range of $28.6M to $57.6M.

The following testimonials from respondents provide a picture of changes companies are making to their business plans as a result of the moratoria:

"We have had to **reduce employee benefits** in order to maintain salaries intact. We have also **sought contracts with other countries** and are attempting to expand the geographic span of our business to include **more international work**." *–Rig-Chem, Inc.* Houma, LA

"Fewer wells drilled per year (about 3-4 wells). Longer time required to permit and plan wells; **increased well costs and operating costs in general ~15% increase**." –Anonymous. Houston, TX

"Delayed investing in new service equipment and testing facilities. Delayed expanding services due to lack of development in Gulf. Exploring other options and **services areas outside the Gulf of Mexico**." –Anonymous. LA

"We are going after other sales outside of this area and **looking to relocate**." – Anonymous. Belle Chasse, LA

"We are still waiting to see if the GOM activity returns to improved levels before radically deciding to change our business plan. **November 2012 will be our decision date**..." -- Anonymous. LA

"Many of our customers have moved significant parts of their operations to Africa or Brazil. We have been shipping more products to those areas and are looking to expand operations in those areas. **We have cut a lot of expenses, including personnel from our Louisiana operations**." – *DCL Mooring and Rigging* New Orleans, LA

"The moratoria has [sic] forced our company to focus more on land based operations and other business directions due to **a large customer base relocating a large amount of their business ventures elsewhere in the world**, ex. Brazil, W. Africa and Middle East." -- Anonymous. Lafayette, LA

"This is the worst year we have had in our US oilfield barge rental and transportation business in more than a decade. The moratorium has been the primary cause of this impact." – *Canal Barge Company* New Orleans, LA

"The cancelation/postponement of the offshore lease sales has severely impacted our future opportunities for our primary geophysical services. In conjunction with this exponential drop in demand for our services, there were very few projects to be had, market pricing for what was available was impacted by "ridiculous" pricing competition. **Our current business plan has us looking at sending our resources to international areas...**" – *Green Marine, LLC* Prairieville, LA

The consistant theme of companies considering a move overseas and postponing local expansion puts the regional economey of Southeast Louisiana on insecure ground. Additionally, the loss of businesses in the oil and gas industry to international markets has potentional negative effects on the national economy.

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Personal Impacts

While this survey focused primarily on the economic changes and business decisions the slowdown in permit approvals and the *de facto* moratorium have caused, we were concerned about the impact on small business owners. Of the 102 respondents, 47 were the owners of the companies. The majority of these business owners experienced personal financial losses as a result of these policies, with six individuals losing all their personal savings.

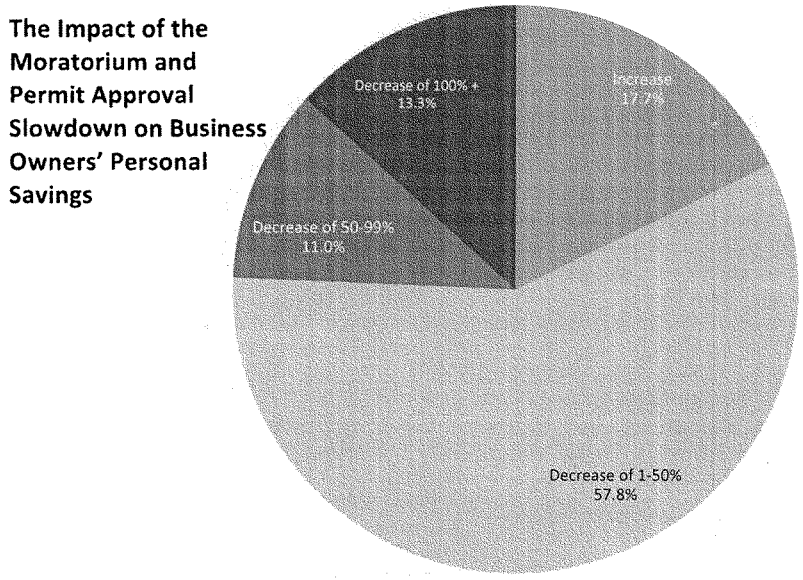


Figure 17. Eight business owners experienced an increase in their personal savings following the Federal Deepwater Drilling Moratorium ranging from 1% to 60% increases. Thirty-seven business owners lost personal savings as a result of the ongoing moratorium.

Conclusions

While there is still further research to be done, these data indicate dramatic economic and community impacts of the permit slowdown that have not been adequately represented in public data sets such as unemployment.

1. Small, medium, and large businesses are all being impacted by the *de facto* moratorium. Large businesses generally have greater capacity to retain workers, expand to other markets, and protect infrastructure investments. Small- and medium-sized businesses that are specialized and immobile are in great danger of going out of business.
2. The moratoria have decreased companies' annual revenues by an average of $32M.
3. A significant majority of businesses surveyed reported decreased cash reserves, with 43% having lost more than half.
4. Public workforce data does not adequately represent the impact that the permit approval slowdown is having on Louisiana businesses. Businesses in the oil and gas industry have been resisting lay-offs, even doing so at a cost, to retain a talented and trained workforce in hopes that permit approval time will decrease. Even so, approximately half of the businesses surveyed reported some lay-offs.
5. Businesses have changed their business plans, often dramatically, in hopes of maintaining profitability despite the permit slowdown. Forty-five companies surveyed have relocated all or some of their business away from the Gulf of Mexico, and many are expanding to international markets, especially Africa and South America.

Mr. SCALISE. Because they actually surveyed not the big five oil companies, small businesses that are American businesses that service the oil and gas industry, and what they found in their report 41 percent of those businesses are not making a profit. In fact, 50 percent of the businesses, and you can see this in the report, 50 percent of the businesses in the oil and gas industry have laid off workers as a result of your policies.

And so while you are out there touting and saying, hey, production is up, everything is great, the companies that actually do this with over $100 a barrel oil, with gasoline skyrocketing, they are laying people off in the industry because they can't go to work. They have sent rigs to places like Egypt, and so people have calculated that it is better to do business in Egypt than in the United States because of your policies.

And so when you are making those statements, that is not an All of the Above policy when companies are losing money or laying people off in America because they have got to send jobs overseas, and so I would hope you would take a look at that. Have you seen that report yet?

Mr. ABBEY. I have not, but what I have seen are statistics that would lead me to believe that the pace of permitting is at nearly pre-Macondo levels as it stands today.

Mr. SCALISE. OK, and I know you have talked about that, too, and I have got some information that unfortunately disputes what you just said there and what your testimony said, because, again, in your testimony you tout here that you have had increased total Federal oil production has increased by 13 percent during the first 3 years of the Obama administration combined, yet your own Department of Energy, your own Administration's agency, the U.S. Energy Information Administration, confirms that production in the Gulf of Mexico was down 22 percent in 2011, projected to be down 30 percent in 2012. Again, Energy Information Administration said in the Rockies leasing is down 68 percent since Federal—President Obama took office. This is Federal lands, and all of this is down. That is not an All of the Above strategy.

And, again, you know, I don't know, do you dispute those numbers, because they are actually looking at your data. I mean, Energy Information Administration is under the Obama administration, and they are using real numbers, and they are saying that production is actually down 22 percent last year. Do you dispute that?

Mr. ABBEY. You know, Congressman——

Mr. SCALISE. I know I am running out time. A yes or no. I mean, yes or no. Do you dispute it, or do you know about it?

Mr. ABBEY. I think that the statistics speak for themselves, but, you know, the Department——

Mr. SCALISE. Well, they do, and they say that it is down. That is not All of the Above. That is not All of the Above when you have got production down because of your policies. We are losing jobs because of your policies.

I want to ask Ms. McCarthy, you know, we have seen some numbers from a number of different entities. You know, you talk about this as well, but, you know, we see on EPA going after hydraulic fracturing, and this is something that has been one of the areas,

one of the few areas that has actually been doing well. President Obama, you know, touts the success of hydraulic fracturing, and we do, and fortunately, the President hasn't been able to shut it down. It is mostly on private lands, but now we are seeing that—we understand next week EPA plans to issue a new source performance standard on hydraulic fracturing which will actually decrease one of the big areas that has actually been doing well in this industry, and that is not All of the Above.

Are you all getting ready to release some kind of new source performance standards on hydraulic fracturing? Is that accurate?

Ms. MCCARTHY. We are under a deadline to release that next week, yes, but it is not a rule that is specifically focused on hydraulic fracking. It is——

Mr. SCALISE. Right. That is one of the few areas that has been up.

Ms. MCCARTHY [continuing]. A rule that looks at oil and gas.

Mr. SCALISE. So now you all are going to go after that, too, so that the President has actually shut down——

Ms. MCCARTHY. Actually, I think if you wait until next week——

Mr. SCALISE [continuing]. Areas in leasing, rejected Keystone XL Pipeline.

Ms. MCCARTHY [continuing]. To see what the rule is, and we will show you that it is not just cost effective, but it will be a way to actually enhance development and——

Mr. SCALISE. People have heard that before and then they see their prices go up even higher when you all go in and try to help enhance production, it usually means people are going to pay higher prices for energy, and people are fed up with those higher prices.

Mr. SHIMKUS. The gentleman's time has expired.

Mr. SCALISE. I hope you all would review those policies again.

Thank you, and I yield back.

Mr. SHIMKUS. I thank the witnesses for the first panel, and your time is done, so thank you very much for being here today. Appreciate your willingness to testify.

And if the second panel witnesses would please come take the table. I want to welcome the panel today for joining us and for your testimony and time today. Appreciate your willingness to be here and the expertise that you are going to provide.

We will begin this testimony to my left here, Mr. Burkhard, the Managing Director of Global Oil Group, IHS Cambridge Energy Research Associates. You will be given 5 minutes to testify, and thank you for joining us, and also joined on the panel today by Matthew—let us see where is that in order here. By Dr. Joseph Romm, Senior Fellow, Center for American Progress, Jack Coleman, Mr. Jack Coleman, Managing Partner and General Counsel, EnergyNorth America, Mr. Matt Smorch, Vice President of Strategic Planning, CountryMark, Mr. Robert Meyers, Senior Counsel, Crowell and Moring, and Mr. Niger Innis, Co-Chairman, Affordable Power Alliance, and Dr. George Schink, Managing Director and Principal Navigant Economics here on behalf of the Emissions Control Technology Association.

Thank you very much for joining us. Each panelist will be given 5 minutes.

Mr. Burkhard, you may begin.

STATEMENT OF JAMES BURKHARD, MANAGING DIRECTOR, GLOBAL OIL GROUP, IHS CAMBRIDGE ENERGY RESEARCH ASSOCIATES; JOSEPH ROMM, SENIOR FELLOW, CENTER FOR AMERICAN PROGRESS ACTION FUND; W. JACKSON COLEMAN, MANAGING PARTNER AND GENERAL COUNSEL, ENERGYNORTH AMERICA, LLC; MATT SMORCH, VICE PRESIDENT, STRATEGY, COUNTRYMARK COOPERATIVE; ROBERT J. MEYERS, SENIOR COUNSEL, CROWELL & MORING, LLC; NIGER INNIS, CO–CHAIRMAN, AFFORDABLE POWER ALLIANCE, AND NATIONAL SPOKESMAN, CONGRESS OF RACIAL EQUALITY; AND GEORGE R. SCHINK, MANAGING DIRECTOR AND PRINCIPAL, NAVIGANT ECONOMICS, ON BEHALF OF EMISSIONS CONTROL TECHNOLOGY ASSOCIATION

STATEMENT OF JAMES BURKHARD

Mr. BURKHARD. Thank you very much for this very timely opportunity to discuss oil and gasoline markets and——

Mr. SHIMKUS. Press your microphone. Thank you.

Mr. BURKHARD. Is that on? OK. Good. Thank you very much for the opportunity, very timely opportunity to discuss oil and gasoline markets and the role of the U.S. Strategic Petroleum Reserve.

As we all know, gasoline is nearing $4 per gallon on average in the United States, which isn't far from the all-time high of $4.17 in 2008, and this is clearly a burden for American motorists and businesses.

Since the beginning of the year gasoline is up nearly 20 percent, and the reason for that is mainly due to higher crude oil prices. So what is driving crude oil prices? The main driver is geopolitics, specifically concern over the adequacy and reliability of oil supplies due to the uncertainty surrounding the—nuclear issues having such an impact is the limited amount of oil production capacity of the world. The capacity is the oil market's——

Mr. SHIMKUS. Mr. Burkhard, I am sorry to interrupt you again, but I think your microphone may have been bumped and turned off again.

Mr. BURKHARD. It has gone off again? OK.

Mr. SHIMKUS. Thank you.

Mr. BURKHARD. There we go.

Mr. SHIMKUS. Pull it up a little bit closer to you.

Mr. BURKHARD. Is that better?

Mr. SHIMKUS. Is the light on?

Mr. BURKHARD. The light is on.

Mr. SHIMKUS. OK. Thank you.

Mr. BURKHARD. OK. So spare capacity is the world oil market's shock absorber. When it is high, the oil market can better absorb supply disruptions or demand spikes for large volumes of oil to be brought into production. And for decades Saudi Arabia has been the main holder of spare capacity, and that is still the case today.

As recently as 2010, global spare production capacity stood at about 5.5 million barrels per day, and at that time that was equivalent to about 6 percent of world oil demand. Today spare capacity is much less. It is at most at 2.5 million barrels per day, which is equivalent to less than 3 percent of current world oil demand. For context, Iran in 2011, exported about 2.4 million barrels per day.

The spare capacity and the amount of exports last year are roughly the same.

Under such conditions limited spare capacity, under such conditions of limited spare capacity yields political concerns and can impact payoffs—switch mikes there.

OK. Is that—is this mike working? Well, we will just go ahead. OK.

So November last year the International Energy Atomic Agency—if that is not working I will just pretend this one is working—stated that Iran had carried out activities relevant to the development of a nuclear explosive device. In the time since that report was issued, the U.S. and the European Union have adopted sanctions aimed at tendering Iran's economy, particularly by making it more difficult for Iran to sell its oil, and that is in order to pressure the Iranian regime to reign in its nuclear program and international monitoring and controls.

Iran has responded with bellicose statements such as threatening to close the Strait of Hormuz, through which passes about 35 percent of the world's oil exports. The sanctions the U.S. and the E.U. sanctioned may well succeed in reducing the amount of Iranian oil in the global market, and this would likely lead to even lower spare capacity and the possibility of higher prices. The oil market is tense.

It is also an election year in the United States, and this has raised question again of the purpose of the U.S. Strategic Petroleum Reserve, the "SPRO," which is the world's largest emergency oil reserve. The "SPRO" was created in the aftermath of the 1973, '74, oil crisis when disrupted flows of oil from the Middle East exposed vulnerability in the U.S. and global economies to such actions.

The original purpose of the "SPRO" was to help the U.S. manage a very large oil supply disruption from the Persian Gulf. If the "SPRO" is used to influence the price of gasoline and not in response to a major disturbance in the oil market, it is a blunt instrument with limited prospects for a lasting impact. The original purpose of the "SPRO" was not to manage gasoline prices, which is an extremely daunting challenge even under benign conditions, but it was said to help to address major supply disruptions, particularly from the Persian Gulf.

The first emergency release of oil from the "SPRO" was in January 1991, at the start of Operation Desert Storm, and it was done in coordination with other members of the International Energy Agency. The release was conducted out of concern for what could happen amid the fog of war in the world's most important oil-producing region. When the release was announced, war was certain. In fact, the very day that the President just announced the commencement of attacks against Iraqian forces, and it had a calming impact on the oil market.

Today, to conclude, there is a risk that ratcheting up economic pressure on Iran, combined with Iranian intransigence on the nuclear issue could lead to a situation where the "SPRO" needs to be used for its original purpose, as an emergency response to a massive supply disruption.

Thank you.

[The prepared statement of Mr. Burkhard follows:]

Prepared Testimony

Oil and Gasoline Markets: The Iranian Dilemma and the Role of the US Strategic Petroleum Reserve

Testimony by

James Burkhard, Managing Director, IHS CERA,
before the US House of Representatives Committee on Energy and Commerce

Washington, DC, March 28, 2012

Prepared Testimony

OIL AND GASOLINE MARKETS:

THE IRANIAN DILEMMA AND THE ROLE OF THE US STRATEGIC PETROLEUM RESERVE

Testimony by James Burkhard, Managing Director, IHS CERA, before the US House of Representatives Committee on Energy and Commerce, Washington, DC, March 28, 2012

It is an honor to address the House of Representatives Committee on Energy and Commerce of the 112th Congress. It is a timely opportunity to discuss the current state of the oil and gasoline markets. The national average price of gasoline in the United States rose above $3.90 per gallon this month, which is an increase of 18% since the beginning of the year. This is a burden for American consumers and businesses amid a fragile economic recovery. Higher crude oil prices are the main reason behind the increase in what Americans pay for gasoline. The price of crude oil typically accounts for about 60% to 75% of the total price of a gallon of gasoline in the United States. The price of crude oil has risen 21% since mid-December.

The all-time record high price of gasoline was $4.17 per gallon in July 2008. The 2008 peak was brought about by the accumulation of oil supply disruptions and several years of strong demand growth in emerging markets. But the key factor shaping the oil price environment this time around is different. This year it is geopolitics—and specifically the uncertainty linked to the Iranian nuclear issue.

THE IRAN PREMIUM DRIVEN BY LIMITED SPARE PRODUCTION CAPACITY

Concern about Iran's efforts to develop nuclear technology with potential military applications is not new. Indeed, Iran first hatched plans to make use of nuclear technology in the 1970s. Since 2002, the Director General of the International Atomic Energy Agency (IAEA) has reported on Iran's nuclear program. In a November 2011 report, the IAEA stated "serious concerns regarding the possible military dimensions to Iran's nuclear programme." These concerns were based on its view that Iran "has carried out activities relevant to the development of a nuclear explosive device."[1]

In the time since the IAEA report was issued, the United States and the European Union have adopted stiffer economic sanctions against Iran. The United States has expanded efforts to disconnect Iran from the global financial system and, toward the end of June intends to sanction oil payments made through the Central Bank of Iran. The European Union has instituted an oil embargo that forbids the purchase of Iranian oil beginning this summer. Together, the American and European sanctions represent a ratcheting up of pressure on the Iranian regime. The aim is to hinder economic activity—particularly oil sales—in order to pressure Iran's leadership to rein in its nuclear program and adhere to international inspections and controls on nuclear activities.

However, in response to the latest sanctions, Iran has opted for bellicose statements such as threatening to close the Strait of Hormuz. The strait is a narrow but very important waterway that

[1] *Implementation of the NPT Safeguards Agreement and relevant provisions of the Security Council resolutions in the Islamic Republic of Iran*, report dated November 18, 2011, by the Director General of the International Atomic Energy Agency.

connects the Persian Gulf to open ocean and global markets. Approximately 17 million barrels per day (mbd) of crude oil pass through the strait—this is about 35% of the world's oil exports. There are also large shipments of liquefied natural gas (LNG) and refined petroleum products that transit the strait, which spans little more than 20 miles (with even more narrow shipping lanes) at its most narrow point between Iran and the tip of the Arabian Peninsula.

This situation—the West's more stringent sanctions and Iran's defiance—is unfolding in an oil market with limited spare production capacity. At most, there is about 2.5 mbd of spare production capacity. Spare capacity is the world oil market's shock absorber. When spare capacity is high, the world oil system is better able to absorb supply disruptions or unexpected demand spikes. For example, large volumes of spare capacity were brought into production following Iraq's invasion of Kuwait in 1990 and at the time of the US-led invasion of Iraq in 2003. Saudi Arabia has been the main holder of spare capacity for several decades—and is today as well.

As recently as 2010, spare capacity stood above 5 mbd. This was after two consecutive years of declining world oil demand. This year IHS CERA estimates that spare capacity will range from 1.8 to 2.5 mbd. The top end of the range is slightly higher than the amount of crude oil Iran exported last year.

Several factors are behind the drop in spare capacity. Although world oil demand growth has weakened over the past year, demand in 2012 is projected by IHS CERA to average 89.5 mbd—a record high. This is about 4 mbd (or 5%) higher than in 2009. Also, a series of supply disruptions in Yemen, Syria, Sudan, and South Sudan have, in aggregate, removed a substantial volume of oil supply from the market. And sanctions against Iran are expected to keep some Iranian supply off the market this year. All of these factors result in a limited amount of spare capacity. Economic logic dictates that when capacity utilization goes up—and spare capacity shrinks to low levels—prices rise for a given level of demand, especially if there is a credible concern that spare capacity could shrink further.

The rise in tension between Western powers and Iran amid an oil market with limited spare capacity has resulted in higher crude oil prices. The price of Brent crude oil—the most important variable in the price of a gallon of gasoline sold in the United States—increased from around $105 per barrel in mid-December to as high as $128 per barrel in March. Most, if not all, of this increase can be attributed to the "Iran premium"—anxiety over the reliability and adequacy of world oil supplies related to the Iranian nuclear issue and its impact on oil flows.

If sanctions succeed in reducing Iran's oil exports, it also means that the world's spare capacity cushion will be whittled down as production is boosted elsewhere, mainly from Saudi Arabia, to offset the loss of Iranian supply. To be sure, oil production is growing in a number of countries. The United States, for example, is experiencing a great revival in oil production. From 2008 to 2011, oil (total liquid fuels) production increased 1.3 mbd—the largest increase for any country in the world. But production growth from the United States and other countries is incremental and cannot be called on overnight to address a major supply shortfall.

Further upward pressure on oil prices could result from a scenario in which Iranian exports are significantly lower amid shrinking spare capacity—particularly if there is little sign of Iran's backing down. The higher oil prices rise, the more sanctions will need to limit Iran's ability to sell oil in the international market in order to achieve the aim of reducing Iranian government revenues. Iran earned about $105 billion in 2011 from its oil exports. If, as an illustration, Iran's exports fall by 500,000 barrels per day for a year, but the oil price increases to an average of

$140 per barrel, then Iran's revenues would remain stable, if not rise slightly. There is also a possibility that Iran will be forced to accept discounted prices for its oil if bargaining power grows among a reduced pool of buyers. This would help to chip away at the country's oil revenues.

STRATEGIC PETROLEUM RESERVES

The oil market is tense. Despite a slowing pace of world oil demand growth—and declining demand in the United States—oil prices have soared to high levels as the confrontation with Iran has intensified. Gasoline prices are reflecting tightness in the crude oil market. It is also an election year. This has raised the question, again, of the purpose of the US Strategic Petroleum Reserve (SPR). The SPR currently holds 696 million barrels of crude oil—equivalent to about 80 days of worth of US net petroleum imports. It is the largest emergency reserve of oil in the world. The oil is held in underground salt caverns along the coast of the US Gulf of Mexico, which is also home to the nation's largest concentration of refineries.

The SPR was created in the mid-1970s in response to the 1973–74 oil crisis, which exposed the vulnerability of the US and the global economies to an unexpected disruption in oil flows. The original purpose of the SPR was to help the United States manage a very large oil supply disruption from the Persian Gulf. In 1973 this was the most important oil-producing region and oil shipping route in the world—and it still is today.

The SPR provides the president of the United States with the ability to call on a large pool of emergency oil reserves in the event of an oil supply disruption that threatens the economy. There have been three releases under this condition as part of International Energy Agency (IEA)-coordinated releases of strategic reserves by IEA member countries.

- **January 1991 at the beginning of Operation Desert Storm.** Oil exports from Iraq and Kuwait had been halted following the August 1990 Iraqi invasion of Kuwait. Higher production, mainly from Saudi Arabia, prevented physical shortfalls from emerging in the months after the invasion. But out of concern for how oil markets would react once the US-led coalition began attacking Iraqi forces, President George H. W. Bush authorized the sale of 33.75 million barrels of oil from the SPR on January 16, 1991—the first day of the war. This was part of a drawdown coordinated by the IEA (the agency was also created in the aftermath of the first oil crisis to help its members address major supply disruptions). The release helped to calm the oil market. In the end, 17.3 million barrels were sold. The war was over in less than two months.
- **September 2005 in the aftermath of Hurricane Katrina.** Crude oil production facilities, import terminals, refineries, and pipelines along the US Gulf Coast were heavily damaged by Hurricane Katrina, which struck in late August. President George W. Bush authorized the sale of 30 million barrels of oil from the SPR as part of a coordinated effort with the IEA in which members directed gasoline and other refined products to the United States. In the end, 11 million barrels of oil were sold from the SPR and 9.8 million barrels were borrowed by refineries as emergency loans.

- **June 2011 in response to the Libyan civil war.** The United States made available 30 million barrels of oil from the SPR. This was also part of a coordinated IEA release, and in total 60 million barrels was made available by IEA members to the market. In announcing the release, US Energy Secretary Steven Chu said the release was "in response to the ongoing loss of crude oil due to supply disruptions in Libya and other countries and their impact on the global economic recovery."

There have been other releases from the SPR, mostly in the form of exchanges of limited scale and in response to short-lived infrastructure difficulties. Exchanges are similar to loans. Concern about high oil prices was a key factor behind a release approved in September 2000 that involved the time exchange (borrow oil now and return oil later) of 30 million barrels of SPR oil.

THE SPR: EMERGENCY RESERVES TO ADDRESS A MAJOR DISRUPTION, NOT PRICES

The prices of crude oil and gasoline in the United States are shaped by many variables. Among these are global economic growth, oil industry investment trends, consumer behavior, retail pricing policy in large consuming countries, and unexpected events that influence the amount of oil available in the global market.

Developments in the United States can help shape long-term trends in the oil market. The great revival in US production in recent years has been an important boost to global supplies. Without this growth, the oil market would be even tighter than it is today. Higher fuel economy standards for cars and light trucks adopted by President George W. Bush in 2007 and later strengthened by President Barack Obama will also have an impact on demand by making the US vehicle fleet more efficient. But this impact will take many years to unfold.

The global oil market is resilient and flexible. Price signals direct flows of oil on a daily basis. But the global scope of the market also makes it difficult for a single county to unilaterally lower oil prices—and keep them low.

In 1991, the coordinated release of oil from the SPR was conducted out of concern for what could happen amid the fog of war in the world's most important oil-producing region. When the release was announced, war was certain. And it did follow on the heels of a massive removal of supply from the market several months earlier. The release had a calming impact on the oil market.

If the SPR is used to influence the price of gasoline, it is a blunt instrument with limited prospects for a lasting impact. The original purpose of the SPR was not to manage prices—an extremely daunting challenge even under benign conditions—but to help address a major oil supply disruption from the Persian Gulf.

Deterioration in global economic growth and the impact of high oil prices on demand growth could remove some of the heat from today's price of oil. Iran could also back down from its current stance—as it has in the past. But there is a risk that ratcheting up economic pressure on Iran combined with Iranian intransigence on the nuclear issue could lead to a situation where the SPR needs to be used for its original purpose—as an emergency response to a massive oil supply disruption.

Mr. SHIMKUS. Thank you, Mr. Burkhard.
Dr. Romm, 5 minutes, please.

STATEMENT OF JOSEPH ROMM

Mr. ROMM. Is this working?
Mr. SHIMKUS. We just ask that you speak very loudly, please.
Mr. ROMM. All right.
Mr. SHIMKUS. Thank you. .
Mr. ROMM. Mr. Chairman, members of the committee, thank you for inviting me to testify. Actually my first hearing was 16 years ago this month when I was Principle Deputy Assistant Secretary at the Department of Energy, and that hearing was also on oil crisis.

Imagine the world's oil market is the Atlantic Ocean. U.S. oil production is the Potomac River. You could release every reservoir dam in this country, and it just won't raise sea levels noticeably. There is just too much water in the ocean, and that is the way it is with oil, the global oil market, and oil prices.

I have six key points to make.

First, there is broad agreement among energy experts and economists that increasing domestic oil production will have no noticeable impact on U.S. gasoline prices for the foreseeable future. Oil prices are set on a world market.

Could we have the first chart?

This is a chart of the U.S. oil price, which is on the bottom, plotted against the price of—U.S. gasoline price, I am sorry, which is the line on the bottom and the British, German, and French price, which is on the top, and as you can see oil prices, gasoline prices rise and fall in tandem. Our prices rise and fall in tandem with European countries, even though they produce very little oil, and we produce a great deal. It is, again, gasoline prices are driven by the world price for oil.

Second, my second point, the rising U.S. gasoline prices has come at a time of soaring U.S. gasoline production. So while President Obama has adopted an aggressive pro-drilling strategy, it has, as expected, not worked to lower prices for Americans. As the Cato Institute itself explained this month, "It is not Obama's fault that crude oil prices have increased." Indeed, Douglas Holtz-Eakin, former CBO Director and Chief Economist for President Bush's Council of Economic Advisory, wrote this month, "Domestic actions to increase production will not lower gas prices set on the global market."

The Energy Information Administration has estimated that adding a quarter million barrels of oil a day in 2020, would have no impact on gasoline prices whatsoever, and adding half a million barrels of oil a day in 2030, would lower gasoline prices by just 3 cents.

Third, U.S. refining costs account for a mere one-eighth of the price of gasoline. The cost of reducing pollutants that harm public health and our children are a small fraction of that small fraction. As the Wall Street Journal has noted, "Germans over the past 3 years have paid an average of $2.64 a gallon, excluding taxes, while Americans have paid $2.69, even though we produce 200 tons

as much oil at they do." Again, it just is not domestic regulations that affect the price of gasoline.

Senator Bingaman has explained, "We do not face these cycles of high gasoline prices because of lack of access to Federal resources or because of some environmental regulation that is getting in the way of us obtaining cheap gasoline."

Fourth, every independent study shows that EPA regulations deliver benefits to the economy and public health that vastly exceed their short-term costs. The OMB reported to Congress that in the past decade EPA regulations had total costs of some $28 billion while delivering benefits to the Nation that ranged from $80 billion up to an astonishing $500 billion.

Economic analysis does not support the conclusion that EPA regulations have harmed U.S. competitiveness, and indeed, some analyses suggest that they have boosted our competitiveness by giving us market leadership and cleaner technologies. Given that our major industrialized trading competitors pay $2 and $4 a gallon more for gasoline than we do, it would be essentially impossible for the tiny impact EPA regulations might have to harm U.S. competitiveness.

There is only one demonstrated way to reduce gasoline prices a little in the short term and that is the release of oil from the Strategic Petroleum Reserve, ideally in concert with a similar release by our allies. This has on average temporarily reduced oil prices by around 10 percent.

Six, the only thing that can protect Americans from rising gasoline prices and global oil shocks is an aggressive strategy to reduce the country's oil intensity, oil consumed per dollar of GDP, including a steady increase in the fuel efficiency of our vehicles and an alternative fuel vehicle policy built around electric vehicles. As Michael Levi of the Council on Foreign Relations put it, "The amount of oil you produce at home does not affect the price. You can lower your vulnerability price by lowering your consumption of oil but not by increasing your production."

So you are not going to notice a big change with gasoline prices through more domestic production or by gutting regulations to protect public health.

Just one final point since the new carbon pollution rules have been discussed here, unrestricted emissions of industrial carbon pollution are the greatest threat to public health and the American way of life that we know of. The EPA's new carbon pollution rules are the minimum first step to protecting our children and future generations.

Thank you.

[The prepared statement of Mr. Romm follows:]

Joseph Romm

Senior Fellow

Center For American Progress Action Fund

Testimony on

"The American Energy Initiative"

House Committee on Energy and Commerce
Subcommittee on Energy and Power

March 28, 2012

Mr. Chairman, members of the Committee, I am delighted to appear before you today to discuss what I believe is the only plausible way to protect Americans from high oil prices.

My name is Dr. Joseph Romm. I am a Senior Fellow at the Center for American Progress Action Fund, a tax exempt organization dedicated to improving the lives of Americans by transforming progressive values and ideas into policy. I hold a Ph.D. in physics from M.I.T.

From 1993 to 1995, I was special assistant for policy and planning to the Deputy Secretary of Energy, who oversaw all of DOE's energy programs, including the Strategic Petroleum Reserve. I served as Principal Deputy Assistant Secretary and then Acting Assistant Secretary at DOE's Office of Energy Efficiency and Renewable Energy in the mid-1990s. In that capacity, I helped manage the largest program in the world for working with businesses to develop and use oil-reducing technologies. I first testified in front of the House on oil prices in 1995.

My testimony will provide analysis and data to support 6 key points:

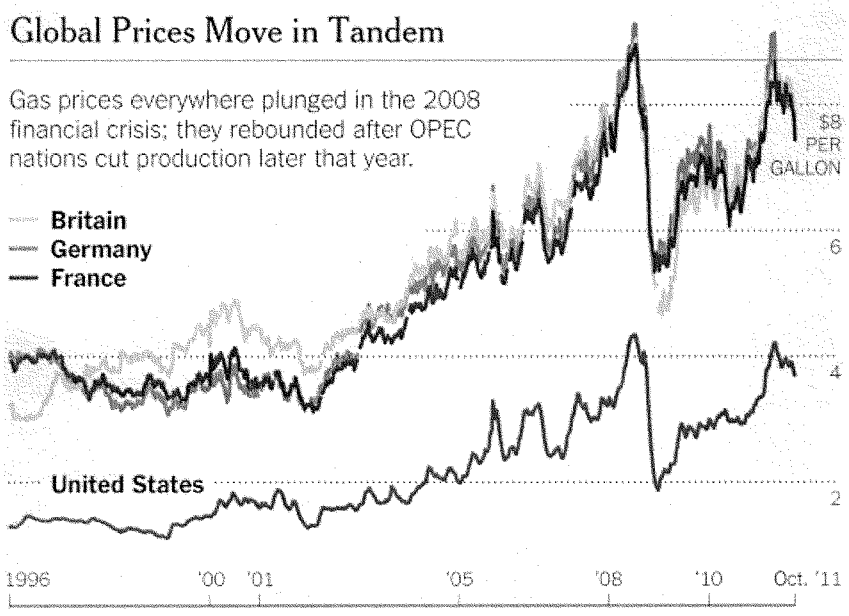
1. There is broad agreement among energy experts and economists that increasing domestic oil production will have no noticeable impact on U.S. gasoline prices for the foreseeable future. Oil prices are set on a world market. That's why our gasoline prices rise and fall in tandem with European countries even though they produce little oil and we produce a great deal.
2. The rise in US gasoline prices has come at a time of soaring US gasoline production. So while President Obama has adopted an aggressive pro-drilling strategy. It has, as expected, not worked to lower prices for U.S. As the Cato Institute explained this month, "It's Not Obama's Fault That Crude Oil Prices Have Increased."
3. U.S. refining costs account for a mere one eighth of the price of gasoline. The costs of reducing pollutants that harm public health and our children are a small fraction of that small fraction. As the *Wall Street Journal* has noted, "According to the U.S. Energy Information Administration, Germans over the past three years have paid an average of $2.64 a gallon (excluding taxes), while Americans paid $2.69" – even though we produce 200 times as much oil as they do. Sen. Jeff Bingaman explained this month, "We do not face these cycles of high gasoline prices because of lack of access to federal resources, or because of some environmental regulation that is getting in the way of us obtaining cheap gasoline."
4. Every independent study shows that EPA regulations deliver benefits to the economy and public health that vastly exceed their short-term costs. Economic analysis does not support the conclusion that EPA regulations have harmed US competitiveness – and indeed some analyses suggest that they have boosted our competitiveness by giving us market leadership in cleaner technologies. Given that our major industrialized trading competitors pay $2 to $4 a gallon more for gasoline than we do, it would be essentially impossible for the tiny impact EPA regulations might have to harm U.S. competitiveness.
5. There is only one demonstrated way to reduce gasoline prices (a little) in the short term – and that is a release of oil from the Strategic Petroleum Reserve, ideally in concert with a similar release by our allies.
6. The only thing that can protect Americans from rising gasoline prices and global oil shocks is an aggressive strategy to reduce the country's oil intensity (oil consumed per dollar of GDP), including a steady increase the fuel efficiency of our vehicles and an alternative fuel vehicle policy built around electricity. As the Council on Foreign Relations put it: "The amount of oil you produce at home doesn't affect the price … You can lower your vulnerability to price by lowering your consumption of oil, but not by increasing your production."

Thus the two bills under consideration would have no noticeable impact on U.S. gasoline prices.

It is rare when there is broad agreement from leading economists and groups spanning the political spectrum, including the Center for American Progress Action Fund and the Cato Institute and American Enterprise Institute; the Wall Street Journal and the New York Times; the Bipartisan Policy Center and the Council on Foreign Relations, the Energy Information Administration and the Oil Price Information Service. They all say more U.S. drilling won't noticeably lower gas prices.

As the Center for Economic and Policy Research put it: "There is almost no disagreement among economists that drilling everywhere all the time offshore will have almost no impact on the price of gas in the United States. The reason is that we have a world market for oil. The additional oil that might come from offshore drilling is a drop in the bucket in a world oil market of almost 90 million barrels a day."

This broad agreement is based on solid data.

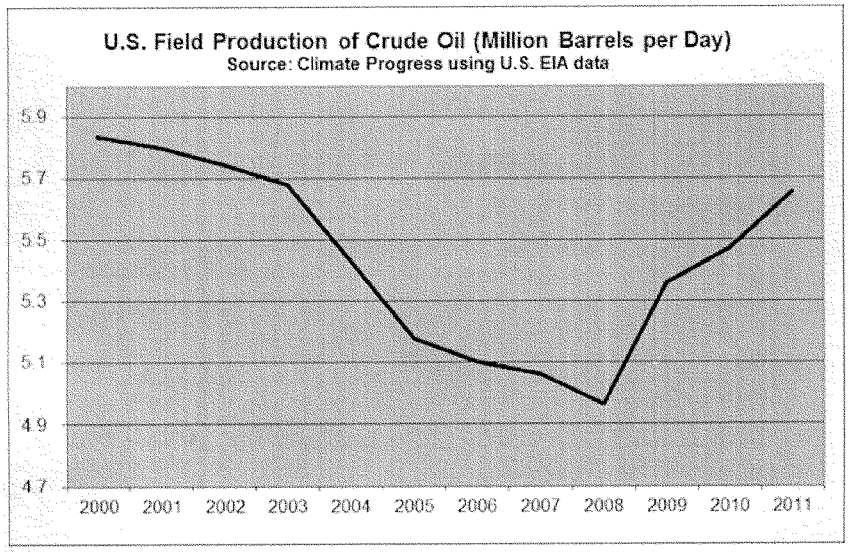


America produces 200 times as much oil as Germany, but our gas prices rise and fall in tandem (we pay far lower gas taxes). Source: Energy Information Administration and NY Times.

Oil prices are set on a global market. Douglas Holtz-Eakin – former CBO Director and then chief economist for President George W. Bush's Council of Economic Advisers -- wrote in March "Domestic action to increase production will not lower gas prices set on a global market."

As the chart above makes clear, it is the world market price for oil that determines changes in the price for gasoline in countries like ours – not domestic production or domestic regulations.

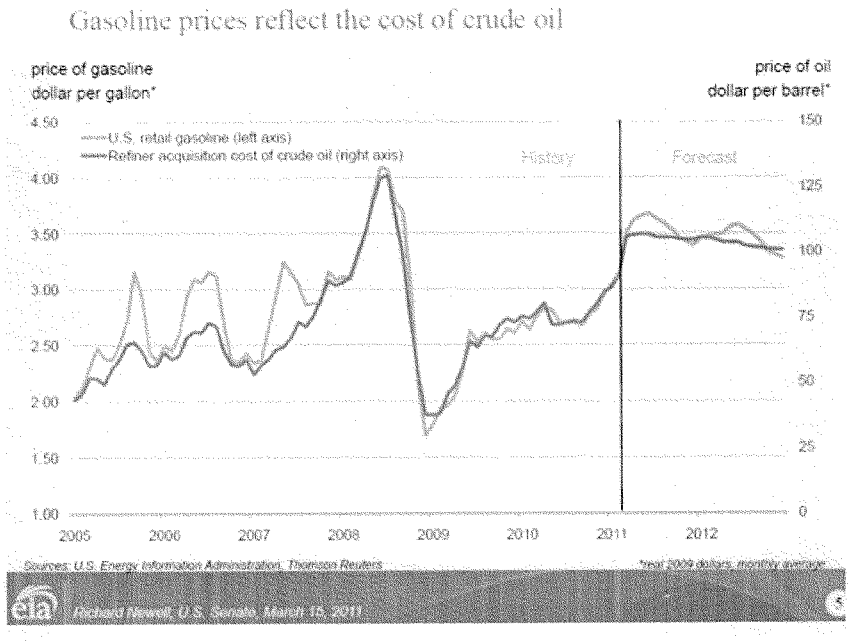
The Obama Administration has succeeded at increasing production and decreasing dependency on foreign oil — but it has unsurprisingly failed at affecting global markets.



The *Wall Street Journal* explained in March:

> U.S. gas prices … are largely fixed by the price of crude oil, which is determined by global supply and demand.
>
> When Mr. Obama was inaugurated, demand was weak due to the recession. But now it's stronger, and thus the price is higher.
>
> What's more, producing a lot of oil doesn't lower the price of gasoline in your country. According to the U.S. Energy Information Administration, Germans over the past three years have paid an average of $2.64 a gallon (excluding taxes), while Americans paid $2.69, even though the U.S. produced 5.4 million barrels of oil per day while Germany produced just 28,000.

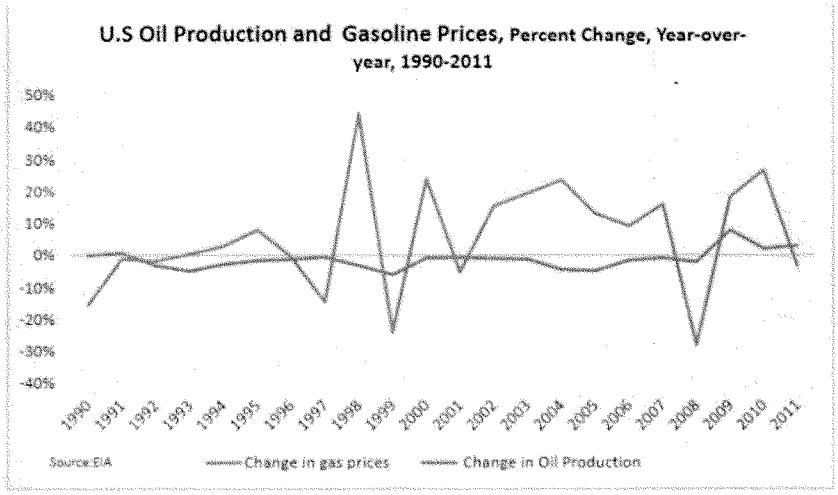
Last year, Sen. Bingaman (D-NM), chair of the Senate Energy and Natural Resources Committee, made a presentation that underscored these points. He included this chart, which makes clear that it is the cost of crude oil that drives U.S. gasoline prices and very little else.



Here is how Sen. Bingaman put it:

> The starting point for the [Senate briefing by oil experts] was one fundamental truth: the primary driver of the price for gasoline at the pump is the price of crude oil. This chart [above] was one of the key ones used by EIA Administrator Newell. It shows the price trends since 2005 for gasoline (in yellow) and crude oil (in green)…. [F]or the last 3 years, gasoline price movements have exactly tracked global crude oil prices. The idea that our gasoline prices are high today because of some policy of the Obama Administration is just not supported by the facts….
>
> The bulk of the discussion at the briefing that we held on Tuesday about high oil prices was about what is going on in the Middle East and North Africa. It should be obvious that this is the major force driving oil prices…. As you can see from this chart, oil prices are very sensitive to these kinds of developments….
>
> But what can Congress do to help ease the burden of high prices for U.S. consumers, when oil prices are determined mostly outside our borders? I think a realistic, responsible answer has to be focused on becoming less vulnerable to oil price changes over the medium- and long-term. And we become less vulnerable by using less oil.

In a floor speech this month, Sen. Bingaman showed a new chart that highlights this point:



We're not going to noticeably change U.S. gasoline prices through more drilling and more domestic production or gutting regulations to protect public health.

In an essay that appeared in *U.S. News & World Report* earlier this month, "It's Not Obama's Fault That Crude Oil Prices Have Increased," Cato Institute scholars explain:

> Why have gasoline prices increased since the start of the year? The simplest explanation is that the price of crude oil has increased. Specifically, the spot price for Brent (North Sea) crude has increased $16 a barrel since January. Given that there are 42 gallons to a barrel, that works out to a 38 cent increase in the price of a gallon of oil. Spot prices for gasoline trade in New York have increased about 41 cents per gallon over the same time frame. So there you go.
>
> Why is the price of North Sea oil relevant to the price of gasoline in the United States? Well, we import gasoline refined in Europe from North Sea crude. Even though these imports constitute less than 10 percent of U.S. gasoline consumption, they are necessary to satisfy domestic demand and their price sets the market price for all gasoline regardless of whether other cheaper crude sources are used to refine most of our gasoline.
>
> Why is the price of North Sea crude rising? One possibility is that supply is down. North Sea (British) production has been decreasing for some time. During the first quarter of 2007, it was 1.7 million barrels a day, or mbd. By the end of 2011, it was down to 1.1 mbd. Norwegian crude oil production has likewise decreased from 2.7 mbd in the first quarter of 2007 to 2.1 mbd at the end of 2011. And global demand is bidding up the price of crude oil from the North Sea and elsewhere.

> Ironically, during the same time period, U.S. crude oil production has marched upward for the first time since 1971. Since the start of 2007, U.S. production has increased by 2.1 mbd. Sure, more domestic oil creates the possibility of fewer refined imports tied to the price of Brent crude, but given that the price of Brent sets the price for crude generally, **the result would be more profit for domestic crude producers rather than significantly lower gasoline prices for Americans** (not that there's anything wrong with that).
>
> So despite the popular perception of President Obama as anti-oil, domestic oil production is increasing for the first time since the Johnson administration.... Unfortunately, presidents get blamed for world market changes that occur during their time in office ... but generally, they do not cause them.

Finally, the EIA's 2009 report, "Impact of Limitations on Access to Oil and Natural Gas Resources in the Federal Outer Continental Shelf" analyzed the difference between full offshore drilling (Reference Case) and restriction to offshore drilling (OCS limited case). Adding 270,000 barrels of oil a day in 2020 relative to the reference case **has no impact on gasoline prices whatsoever** (right hand column). Adding 540,000 barrels of oil a day in 2030 relative to the reference case, lowers gasoline prices by three cents.

Annual Energy Outlook 2009 with Projections to 2030

Table 9. Crude oil and natural gas production and prices in two cases, 2020 an

Projection	Crude oil production (million barrels per day)	Crude oil price (2007 dollars per barrel)	Motor gasoline price (2007 dollars per gallon)
2020			
Reference case	6.48	115.45	3.60
OCS limited case	6.21	115.56	3.60
Difference from reference case	-0.27	0.10	0.00
Percent difference from reference case	-4.2	0.1	0.0
2030			
Reference case	7.37	130.43	3.88
OCS limited case	6.83	131.76	3.91
Difference from reference case	-0.54	1.34	0.03
Percent difference from reference case	-7.4	1.0	0.8

And, as we've seen, the actual increase in U.S. production of more than 600,000 barrels of oil a day in the past few years has not stopped the recent gasoline price rise.

As for the impact of environmental regulations, U.S. refining costs account for a mere one eighth of the price of gasoline. The costs of reducing pollutants that harm public health and our children are a small fraction of that small fraction. As noted above, the *Wall Street Journal* pointed out this month, "According to the U.S. Energy Information Administration, Germans over the past three years have paid an average of $2.64 a gallon (excluding taxes), while Americans paid $2.69" – even though we produce 200 times as much oil as they do. Sen. Jeff Bingaman also explained this month, "We do not face these cycles of high gasoline prices because of lack of access to federal resources, or because of some environmental regulation that is getting in the way of us obtaining cheap gasoline."

Every independent study shows that Environmental Protection Agency regulations deliver benefits to the economy and public health that vastly exceed their short-term costs. The White House Office of Management and Budget's thirteenth annual Report to Congress detailed the estimated benefits and costs of federal Regulations. Its principal findings:

> The estimated annual benefits of major Federal regulations reviewed by OMB from October 1, 1999, to September 30, 2009, for which agencies estimated and monetized both benefits and costs, are in the aggregate between $128 billion and $616 billion, while the estimated annual costs are in the aggregate between $43 billion and $55 billion.
>
> Some rules are estimated to produce far higher net benefits than others. Moreover, there is substantial variation across agencies in the total net benefits produced by rules. For example, the air pollution rules from the Environmental Protection Agency(EPA) produced 60 to 87 percent of the benefits and 58 to 64 percent of the costs.

The report found that the EPA regulations have, between 1999 and 2009, had aggregate costs of $26 to $29 billion while delivering benefits from $82 billion up to an astonishing $533 billion.

Economic analysis does not support the conclusion that EPA regulations have harmed US competitiveness – and indeed some analyses suggest that they have boosted our competitiveness by giving us market leadership in cleaner technologies. Indeed, as The *Atlantic Monthly* noted in January:

> ... government regulators at the Environmental Protection Agency may have helped make U.S. refiners more competitive in the global marketplace. How? By forcing them to create cleaner burning diesel fuel.
>
> If you look at the Energy Information Administration's breakdown of the country's petroleum of product exports, one category should jump out at you: distillate fuel oil. That's the technical term for what we all know as diesel. In October of 2011, U.S. refiners shipped out about 2.7 million barrels a day of finished petroleum products. Forty percent of those barrels contained diesel fuel. Gasoline only accounted for 19 percent.
>
> It makes sense that diesel should make up such a big chunk of our finished fuel exports. As Tom Kloza, chief analyst with the Oil Price Information Service, told me, in much of the world diesel rules. Europeans use it to power their cars. South Americans use it to power their tractors. Many governments, particularly in Europe, are requiring varieties with lower levels of sulfer, a major air pollutant that causes respiratory problems and contributes to acid rain. In the last several years, Kloza said, U.S. oil refineries in the Gulf of Mexico have invested heavily in the sophisticated technology necessary to create that kind of clean diesel fuel. Two-thirds of U.S. diesel exports in October were the variety known as "ultra low sulfur."
>
> The investment that made those exports possible didn't happen by accident. Nor was it purely due to the forces of capitalism. In 2001, the EPA issued a new rule that reduced the amount of sulfur allowed in highway diesel fuel by 97%, from 500 parts per million to just 15. Part of the regulations, which went into effect in 2006, forced refineries to begin producing more of the cleaner diesel. In response, oil refiners spent billions updating their plants with the necessary equipment, adding roughly 37% more desulferization capacity.
>
> As a result, U.S. refiners now make a product that's more ready for the global marketplace.

Given that our major industrialized trading competitors pay $2 to $4 a gallon more for gasoline than we do, it would be essentially impossible for the tiny impact EPA regulations might have to harm U.S. competitiveness.

There are very few immediate actions that government can take to stop the oil price escalator. We tried opening up most of the Gulf of Mexico to offshore drilling a few years ago, but that failed miserably and oil prices have risen sharply since then. More supply isn't going to have a noticeable impact, as we've seen.

But selling a relatively modest amount of crude oil from the U.S. Strategic Petroleum Reserve while promoting oil efficiency could pop the speculative oil price bubble and lower prices. The Center for American Progress Action Fund has put together this table of the Strategic Petroleum Reserve's impact on gasoline prices over the short term:

Getting some relief at the pump

Strategic Petroleum Reserve oil sales' effects on gasoline prices

President	SPR oil sale announcement	Percent SPR filled	Percent change in oil price	Percent change in gasoline price
George H. W. Bush	January 1991	81%	-18%	-11.7%
Bill Clinton	May 1996	79%	-10%	-5.4%
Bill Clinton	October 1996	78%	-0.5%	+1.0%
George W. Bush	September 2005	94%	-16%	-19.2%
Barack Obama	June 2011	100%	-17%	-5.9%

* Prices in weekly U.S. regular all formulations retail gasoline prices (dollars per gallon)

Sources: U.S. Department of Energy, "Releasing Crude Oil From the Strategic Petroleum Reserve," available at http://fossil.energy.gov/programs/reserves/spr/spr-drawdown.html; U.S. Energy Information Administration, "Weekly U.S. Regular All Formulations Retail Gasoline Prices (Dollars per Gallon)," available at http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMM_EPMR_PTE_NUS_DPG&f=W.

As my colleague Dan Weiss has noted:

> There is also a legitimate concern about adequate oil reserves in case of a severe Iranian supply disruption, but we have ample supplies in the SPR to withstand it. Iran exports 2.2 million barrels of oil per day worldwide, and none of it comes to the United States. The United States could replace these Iranian exports to other nations for 60 days, and our reserves would still be 80 percent full. And after completely offsetting a 180-day disruption in Iranian oil supplies, the SPR would still be 40 percent full.
>
> Iran has also threatened to cut off the Strait of Hormuz through which 17 million barrels of oil travel every day. This is about one-fifth of worldwide consumption. There is enough oil in the SPR that the United States could replace this oil for three weeks, and its reserves would still be half full. The bigger challenge in that scenario is that the SPR can release no more than 4.4 million barrels per day.

Obviously sales of the SPR are a temporary measure. If you are concerned about the impact of high oil prices from Middle East instability, the only viable long-term strategy is one aimed at ending our addiction to this climate-destroying fossil fuel.

As Michael Levi of the Council on Foreign Relations has said: "The amount of oil you produce at home doesn't affect the price ... You can lower your vulnerability to price by lowering your consumption of oil, but not by increasing your production."

Fatih Birol, the chief energy economist of the once-staid and conservative International Energy Agency, said in 2009, "We have to leave oil before oil leaves us".

I'll conclude with the remarks Sen. Bingaman made in his recent floor speech:

> "The long-term solution to the challenge of high and volatile oil prices is to continue to reduce our dependence on oil, period. This is a strategic vision that President George W. Bush, who previously had worked in the oil industry, clearly articulated in his State of the Union speech in 2006. We subsequently proved in Congress in 2007, the year after that State of the Union speech, that we have the ability to make significant changes in our energy consumption, and that it is possible to mobilize a bipartisan consensus to do that.
>
> "The bipartisan path that the Senate embraced in 2007 is still the right approach today. As part of whatever approach we take to energy and transportation in the weeks and months ahead, we need to be honest with our constituents about what works, and we need to keep moving in that direction with that 2007 bill. We need to allow the facts, and not myths, to be our best guide."

Mr. SHIMKUS. Thank you, Dr. Romm, and Mr. Coleman, for 5 minutes, please. Thank you.

STATEMENT OF W. JACKSON COLEMAN

Mr. COLEMAN. Thank you. Thank you very much, Mr. Chairman. It is a pleasure to be here. I appreciate the opportunity to testify on this proposal that you submitted the underlying bill for.

I think it is extremely important, and by the way, my 6 years of working for the House Resources Committee, I had the pleasure of working with this committee many times, and it is my pleasure to testify before it.

I think the Strategic Energy Production Act of 2012, is a very important piece of legislation that highlights the fact if we have supply situations that we need to draw down Strategic Petroleum Reserve for, then we need to be doing more to produce from our Federal lands.

It has been mentioned that, you know, we haven't had a lack of resources available from Federal lands. I beg to differ. When we look at the Outer Continental Shelf, only 2 percent of the Outer Continental Shelf is available, is leased. Five percent of the onshore public lands, Federal lands are leased. So a total of around 3 percent of all federally-controlled lands are leased. You cannot tell me that we don't have a lot of resources that are available to the United States and to the citizens of this country for not only economic development, creating jobs, high-paying jobs in those other resources that have not been made available or not leased.

You know, I think it is a lot of fuzzy thinking, frankly, to say that we don't, it doesn't matter about American production of oil to the Federal oil price. You know, the AP analysis that came out about the price of oil and trying to say that, you know, it didn't matter about increases or decreases in production in the United States because the world, the oil is set on the world market, certainly it is, but we are the third largest producer of oil in the world. You cannot tell me that if we—if our production was eliminated, that that would not have an impact on the price of oil in the world. We already have just because of the reduction in production from Iran, much smaller amount than what this country is producing, already has a significant impact on the world market price of oil.

So what we need to be focused on is what can we do. You know, I am pretty amazed with the credit that is being claimed for increases in production of oil from private and State lands. As we, as I point in my testimony, actual production of oil from Federal lands decreased significantly over the last year. We all know based on how long it takes to get permits and how long it takes to get out there and drill, it takes a long time to get that production on board. The increase that we had in the previous years came about from significant lease sales that were in the past and commitment of capital, what you have seen.

And a little bit of my background, I have spent 14 years as Senior Attorney for Offshore Minerals at the Interior Department, and you know, I know something about this, and then another 6 years here at the committee. What we have seen is really a manipulation of statistics, trying to claim credit for something which people

aren't due credit for, and actually what credit there is due is a 15 percent reduction in leasing of Federal lands, onshore and offshore, in the last 3 years. The actual number—it doesn't matter. The actual number of leased acreage, which is an indicator of future production, has decreased by 15 percent over the last 3 years. It is one of the lowest levels that we have had in almost 20 years.

This should be a great concern to the American people, that you have much less opportunity. We talk about opportunities for production in this country. You know, for the longest time we were given the mantra, oh, we don't have much resources, nothing we can do. Well, we actually have had that corrected by the record of Congressional Research Services, I point out in my testimony, came out with a report about 2 years ago that said the United States has the largest endowment of total fossil fuel resources that have not yet been produced in any other country in the world, and even in the oil and gas area we have significantly more conventionally recoverable resources than most nations on the face of the Earth.

And the Institute for Energy Research came out with a report about 3 months ago in North America we have something around a 1–1/2 trillion barrels of oil that could be produced. The vast majority of that is in the United States, and more than half of that is on Federal lands.

So I appreciate the opportunity to testify, and I look forward to any questions.

[The prepared statement of Mr. Coleman follows:]

Summary of the
Testimony of W. Jackson Coleman
Before the Subcommittee on Energy and Power
U.S. House of Representatives Committee on Energy and Commerce
Concerning H.R. ___, the Strategic Energy Production Act of 2012
March 28, 2012

Key Points

1. The proposed bill is an appropriate response to any drawdown of the SPR.
2. I recommend that an implementation deadline be added.
3. The United States will rely upon fossil fuels for the majority of its energy for at least the next 50 years.
4. The United States has larger recoverable fossil fuel resources than any other nation.
5. A large part of those fossil fuel resources are located on Federally-controlled lands.
6. Leasing and production of oil and natural gas from Federally-controlled lands has been in a decline.
7. There are significant structural and operational problems with the way the Federal government manages the oil and gas programs.
8. Production of Federally-controlled oil and natural gas can payoff the entire national debt without use of taxes other than those directly derived from that production.
9. Production of Federally-controlled oil and natural gas will provide a host of other important benefits to the nation.
10. The Set America Free Act of 2005 established the national policy that Canada, Mexico and the United States could and should become energy self-sufficient as a group by 2025.
11. The American people strongly support producing the nation's oil and natural gas resources and they do not believe that the Federal government is doing all that it can to develop our own oil and natural gas resources.
12. Congress needs to enact policy facilitating oil and natural gas production from Federally-controlled lands.

Testimony of W. Jackson Coleman

before the Subcommittee on Energy and Power

of the

United States House of Representatives Committee on

Energy and Commerce

Concerning H.R. _____, the Strategic Energy Production Act of 2012

March 28, 2012

Chairman Whitfield, Ranking Member Rush and Members of the Subcommittee, my name is Jack Coleman and I am Managing Partner and General Counsel of EnergyNorthAmerica, LLC, a energy consulting firm. My testimony today reflects my personal views and should not be attributed to any organization. I appreciate the Subcommittee's invitation to present my views at this hearing on the proposed "Strategic Energy Production Act of 2012."

Early in 2009 I retired after a career of almost 27 years in the Federal government – the last six of which were spent working in the House of Representatives first as energy and minerals counsel and then Republican General Counsel of the House Committee on Natural Resources. While working in the House, I drafted many bills, including the Deep Ocean Energy Resources Act passed by the House in 2006, and significant parts of the Energy Policy Act of 2005.

My work in the House followed my previous fourteen years as a senior attorney at the Department of the Interior. For eleven years the Minerals Management Service (MMS) was my primary client, and prior to that, for more than three years I was Senior Attorney for

Environmental Protection and legal advisor to the Department's Office of Environmental Affairs. My first work on offshore oil and gas issues began during the period from March 1982 until August 1985 when I was Special Assistant in the Office of the Administrator of the National Oceanic and Atmospheric Administration. This year marks my 30th year working on energy and natural resources issues.

I. Provisions of the proposed "Strategic Energy Production Act of 2012."

The bill directs the Secretary of Energy, not later than 180 after the first drawdown of the Strategic Petroleum Reserve (SPR) after enactment, to develop a plan to increase the percentage of onshore and offshore Federal lands leased for oil and natural gas production. It provides that the total percentage of Federal lands leased for oil and gas production will increase by the same percentage of petroleum in the SPR that was drawn down, but it caps the percentage at 10%. Lands managed under the National Park System or the National Wilderness Preservation System are excluded from this calculation and leasing plan. All Federal agencies are required to comply with the plan developed by the Secretary of Energy.

II. Analysis of bill provisions.

The policy of the bill addresses current suggestions to drawdown the SPR. Because the SPR was designed to help manage severe oil supply disruptions, it is logical that any drawdown would be tied to a measure designed to increase domestic supplies of liquid fossil fuels. In my view, the bill's provisions are adequate to their purposes, however, I recommend that a mandate be added to the bill, requiring full implementation of the plan by a date certain. Otherwise, the country would be trading an immediate loss of strategic oil reserves for a leasing plan that might

never be implemented. I commend Congressman Gardner for his introduction of the foundation bill.

III. Policy Review.

When I first came to work for the House Committee on Resources almost 9 years ago, the nation was in the midst of a natural gas supply crisis. Inadequate volumes of gas were in the marketplace and the long-term future US production capability of this vital resource seemed inadequate for expected demand. This caused prices to be substantially higher than today. One of my first assignments was to work on the Speaker's Task Force on Affordable Natural Gas. Because of the "shale gas revolution" made possible by abundant shale gas resources, hydraulic fracturing, horizontal drilling, private minerals, and primarily state regulation, our country no longer fears a shortage of American natural gas. Through their outstanding efforts, the private oil and gas exploration and production industry has discovered and proved up more than 200 years of natural gas reserves for this country. Please note that I refer to private minerals and primarily state regulation. The shale gas revolution could never have happened on Federal lands under the current state of Federal regulation, and the country would not be reaping the huge economic benefits of abundant, inexpensive natural gas. These huge reserves of natural gas will be major drivers for in the revival of manufacturing in the United States.

Our oil and gas producers have been severely hampered in their exploration and production efforts on Federal lands because the Federal government has become so difficult to deal with. Permitting a well with state regulators might take a month, or at the most two months. The same well on Federal lands may take a year or longer. Further, Federal laws give environmental groups the opportunity to litigate an oil and gas prospect at multiple points along the way toward

production. I could write a litany of actions by the Department of the Interior that have unreasonably, and frequently unlawfully, restricted energy leasing, exploration and production on Federal lands, both onshore and offshore. But I will list only a few:

1. Removal of the Atlantic Ocean, Pacific Ocean, Eastern Gulf of Mexico, and Alaska Beaufort Sea from consideration for oil and gas leasing until 2017 at the earliest.
2. A decision to send commercial oil shale regulations back through the rulemaking process despite the fact that these regulations were finalized after months of extensive and open public comment, including the reports and recommendations of an 11-member task force made up of state and local officials.
3. Repeated delays for the 2012-2017 offshore oil and gas leasing plan, leaving serious doubt as to whether a program will be in place on July 1, 2012, when the current program ends.
4. A failure to complete work on the environmental analysis that would allow companies to move forward with crucial seismic surveys in the Atlantic. Applications to perform seismic work in the Atlantic have been pending for several years.
5. A failure to move forward with energy projects in Alaska, both onshore and offshore, that exposes the Trans-Alaska Pipeline System to risk of shutdown.
6. A failure to issue onshore leases within the required 60-day timeline, thereby imposing a significant cost to successful bidders.
7. Placing of severely restrictive and expensive conditions of approval on permits – long after the lessee has made major investments in the lease.

8. Failure to properly and expeditiously implement many of the energy law reforms enacted by Congress as part of the Energy Policy Act of 2005, including the NEPA categorical exclusions provision and the oil shale and tar sands commercial leasing program.

9. Implementation of the lengthy and unnecessary offshore oil and gas drilling moratoria post-Macondo in the Gulf of Mexico and offshore Alaska, contrary to law and with major negative impacts for national oil and gas production.

10. Continued failure to comply with statutory permitting requirements for exploration plans in the outer Continental Shelf.

11. Reducing by 15% since November, 2008, the total acreage of Federally-controlled onshore and offshore lands leased for oil and gas production. This dropped from about 92 million acres to less than 78 million acres – or to only about 3.1% of the total of Federally-controlled minerals. The number of onshore oil and gas leases has decreased by more than 10% in the past three years, and the number of offshore oil and gas leases has decreased by almost 19% during that three years.

12. While state and private lands have enjoyed a significant increase in oil and natural gas production over the past three years, according to the EIA oil production from Federal lands declined from 2010 to 2011 by almost 12.6% and natural gas production declined by almost 10.3%. Finally, annual average onshore acreage leased for oil and gas over the past three years has decreased almost 57% from the annual average onshore acreage leased for oil and gas over the previous three years.

A recent Congressional Research Service report (R40872, November 30, 2010) documented the fact that the United States has the largest endowment of recoverable hydrocarbon resources

in the world. No other country has more recoverable oil and natural gas than we do. Yet, with current national policies, a large portion if not a majority of those resources will never be produced. We have failed to do our part to produce oil resources so that world supply and demand will stay in balance. We have known for decades that undeveloped countries were growing much faster than we are and that great pressure would be placed on oil supplies. But our national policy actions have not responded adequately to that knowledge.

I think of our national energy resources located on Federal onshore and offshore lands as being locked up in a deep freezer, with many padlocks on it. Each new unnecessary regulatory restraint is a new padlock on that freezer – keeping those resources from being available to meet the economic and energy security needs of this country. The role of the Federal government is to establish strong safety and environmental performance standards, and then inspect and enforce to ensure that these standards are met. But instead of that vision, we have a Federal government that micromanages and must approve almost everything that an energy producer does. The emphasis on a prescriptive regulatory regime is contrary to the most enlightened oil and gas regulatory regimes in the world that rely on performance-based regulation with compliance inspections. The red tape that has been heaped upon the process is almost unbelievable. Our Federal energy production management programs are good examples of how to do things the hard way instead of the smart way.

President Obama stated in a speech on June 15, 2010, that the energy debate has been marked by "a lack of political courage and candor." In my view, candor would mean telling the American people that, according to the most recent Annual Energy Outlook by the non-partisan U.S. Energy Information Administration (EIA), oil, coal, and natural gas (fossil fuels) currently supply about 83% of America's energy. Candor would inform that the EIA projects that between

now and 2035 the total volumes of fossil fuels used in the United States will increase, not decrease, and that 77% of America's energy will come from fossil fuels in 2035.

Over the next 25 years, the U.S. population is projected to increase from just over 300 million to just under 400 million people. The number of motor vehicles is projected to increase from about 230 million to almost 300 million. The American economy is projected to almost double in size. Energy efficiencies in appliances; smarter use and more efficient transmission of electric power; more energy-efficient buildings; and many other efficiency and conservation measures are very important and will play a significant role in minimizing the increase in fossil fuels that will be needed to power a growing American economy. Further, wind, solar, and biomass renewable sources of energy are expected to provide 12.5% of America's energy supply in 2035, up from 5.4% in 2010.

It is very clear that for at least the next 50 years, and probably much longer, a majority of America's energy supply will come from fossil fuels. As the EIA projections show, an energy agenda focused primarily on renewable energy sources will fail to meet the energy needs of the American people.

For a host of reasons from national security to creating excellent jobs here in America, it is vital that the United States become energy self-sufficient. In fact, EIA projects that the net import share of total U.S. energy consumption will decrease from 29% in 2007 to 13% in 2035. Further, the net import share of U.S. liquid fuels consumption (primarily for transportation) is projected to decrease from 60% in 2006 to 37% in 2035, even though total liquid fuels consumption will increase. A large part of these reduced import shares is projected to result from significant increases in production of U.S. fossil fuels. For example, EIA projects that

annual production of oil in the U.S. will increase by 15.66% by 2035, natural gas will increase by 22.2%, and coal will increase by 17.8%.

In 2005, Congress in its wisdom enacted the Set America Free Act, Sections 1421-1424 of the Energy Policy Act, which established the national policy that the three mainland countries of North America – Canada, Mexico, and the United States – can and should become energy self-sufficient by 2025 for a host of economic and national security reasons. The House made clear that this would be achieved through an "all of the above" approach. In its findings, the House of Representatives was extremely prescient:

"(6) EIA projects that, without a change in governmental policy, the three contiguous North American countries contain 492.7 Bbbls of oil resources (16.8 percent of total world oil resources) (not including unconventional oil resources such as United States oil shale or the overwhelming majority of Canadian oil sands) at the base case oil price, which represents sufficient oil to fully supply the needs of the three contiguous North American countries for 57.4 years based on 2001 oil consumption and 39.1 years based on projected 2025 oil consumption, resulting in an average of approximately 48 years of full supply.

. . .

(10) According to published scientific, technical, and economic reports, the three contiguous North American countries have the resource base and technical ability to increase production of oil by at least 15 Mmbbl/d by 2025 and 20 Mmbbl/d by 2030 even before increases in coal liquifaction, biofuels, gas-to-liquids, and other methods of creating liquid substitutes for crude oil and crude oil products.

(11) This increase in North American oil production would be derived from a variety of resources including, among others—

(A) the United States oil shale resource base (2 trillion barrels of oil in place out of 2.6 trillion in the world) believed to be capable of eventually producing 10 Mmbbl/d for more than100 years;

(B) the Canadian Alberta oil sands resource base (1.7 trillion barrels of oil in place), also believed to be capable of eventually producing 10 Mmbbl/d for more than 100 years;

(C) the United States heavy oil resource base (80 billion barrels of oil in place);

(D) the remaining 400 billion barrels of conventional oil in place in the United States of which 60 billion barrels are potentially producible with advanced CO2 enhanced oil recovery technology;

(E) the United States oil sands resource base of 54 billion barrels of oil in place;

(F) the Arctic National Wildlife Refuge Coastal Plain area (ANWR) with a mean technically recoverable resource of more than 10 billion barrels of oil;

(G) the National Petroleum Reserve-Alaska (NPR-A) with a mean technically recoverable resource of 9.3 billion barrels of oil;

(H) the 12–18 billion barrels of oil likely to be producible in the Canadian Atlantic offshore;

(I) the extensive resources of the Canadian Arctic onshore and offshore;

(J) the extensive resources in the Alaskan Arctic offshore and the outer Continental Shelf offshore the lower-48 United States;

(K) other extensive oil resources in Canada and the United States; and

(L) the extensive oil resources of Mexico.

. . .

(13) Growth in world oil consumption has been outstripping growth in world production of conventional oil resources for several primary reasons, including that conventional oil production in most oil producing countries has peaked and is now declining, and developing nations such as China and India are greatly accelerating their consumption of crude oil.

. . .

(16) Because the price of crude oil is set on a world market basis, the excess of world demand over supply will continue to drive up oil prices to levels potentially several times those of today unless all nations capable of producing significant quantities of incremental oil respond by ensuring such production is developed and available for consumption on an expedited basis.

. . .

(27) Economists have found that while OPEC is an important source of oil price increases, the United States government is also partly to blame because overly burdensome government regulations on domestic energy exploration, production, and sales have supported OPEC's monopoly power and restricted competition from American energy companies, in addition to making expansive highly prospective areas off-limits to leasing and production.

(28) In addition to jeopardizing our national and energy security, importing the majority of our oil also injures our economic security. The United States imported approximately 4.7 billion barrels of oil in 2004, of which 1.4 billion barrels were from Canada and Mexico. Imported energy creates very few jobs in the United States and makes only a very minor contribution to our Gross Domestic Product (GDP). If we substitute North American production for the remaining 3.3 billion barrels of imports per year, at $40 per barrel the new production would sell for $132 billion. A widely used commercial economics model projects that GDP would increase

by $336 billion, creating 1,667,160 jobs, each with an average total annual compensation of $50,356. Further, such activity is projected to generate approximately $22 billion in indirect business taxes, including sales, excise, and severance taxes. At a one-eighth royalty, total royalty payments to mineral rights owners would approximate $16.5 billion per year. Further, our imported energy represents more than 25 percent of our international trade deficit. American production could eliminate two-thirds of the 25 percent, strengthening our economy."

IV. What oil and natural gas resources does the U.S. have?

As detailed in the previously referenced Congressional Research Service Report (R40872), dated November 30, 2010, entitled "U.S. Fossil Fuel Resources: Terminology, Reporting, and Summary", the United States has more producible fossil fuels resources (on a barrel of oil equivalent basis) than any other country in the world. More than Russia, twice as much as China, three times more than Saudi Arabia, and twenty-three times more than Brazil. The United States is also the world's leader in technically recoverable undiscovered oil and natural gas, with 50% more than Saudi Arabia, more than four times that of Brazil, and twelve times that of China.

The CRS finding is supported by a December 2011 report by the Institute for Energy Research, "North American Energy Inventory." That report concludes, based on U.S. Government reports, that the United States contains 1.442 trillion barrels of recoverable oil, 2.744 quadrillion cubic feet of recoverable natural gas, and 486 billion short tons of recoverable coal. Clearly, the United States is a energy giant and has the resource base to be fully self-sufficient.

As an example of what can happen if the private sector is allowed to produce our bountiful natural resources, just a few short years ago the Bakken formation in North Dakota and Montana, which covers 15,000 square miles, was just an "idea". With breakthroughs in technology, we are now producing more than 500,000 barrels of oil per day and climbing – this from the largest U.S. oil discovery in more than 40 years.

As of the time of the last Department of the Interior Offshore Oil and Gas National Assessment of offshore oil and gas resources in 2006, just over 14 billion barrels of oil had been produced from the federal offshore and more than 15 billion barrels of already discovered oil reserves were available to be produced. Further, the National Assessment estimated that exploration and production activities in the federal offshore would, in the mean case, eventually produce an additional 86 billion barrels of currently undiscovered oil – assuming the offshore lands containing this oil are reasonably made available for leasing and production. These two amounts combine to an expected future production from the federal offshore of 101 billion barrels – sufficient to eliminate all oil imports by the United States, at current levels, for almost 25 years.

Similarly, the National Assessment estimated that just over 153 trillion cubic feet of natural gas have been produced from the federal offshore and that more than 60 trillion cubic feet of already discovered natural gas is available to be produced. Further, the National Assessment estimated that exploration and production activities in the federal offshore would, in the mean case, eventually produce an additional 420 trillion cubic feet of currently undiscovered natural gas – assuming the offshore lands containing the natural gas are reasonably made available for leasing and production. These two amounts combine to an expected future production from the

federal offshore of 480 trillion cubic feet of conventional natural gas – sufficient to totally provide for the United States' current annual consumption of natural gas for more than 20 years.

As the great Oscar Hammerstein II once said, "a bell is no bell till you ring it," similarly, oil and gas resources are not reserves that can be produced for the benefit of our country until they are leased, drilled for and discovered.

According to the *Washington Post*, President Obama stated last week in a speech in Boulder City, Nevada, on March 21, "America used 20 percent of the world's oil, and we've got 2 percent of the world's oil reserves. I wasn't a math major, but if you're using 20, you've only got 2, that means you got to bring in the rest from someplace else." He has made numerous similar statements since he became President. First on March 14, and more strenuously on March 22, the *Washington Post* has criticized the President for his "dubious combination of two true statistics" – what the *Post* called "non sequitur facts" – "two bits of information that actually bear little relationship to each other." As the *Post* stated, "using 'oil reserves' as a key metric gives an incomplete picture of U.S. oil resources." The *Post* then cited to the 2010 analysis by the Congressional Research Service, which pointed out that "'Proven reserves' whether for oil, natural gas or coal, has a very strict definition, in part because reserves are considered actual assets owned by companies. The oil must have been discovered, confirmed and economically recoverable, with at least 90 percent certainty. The level of reserves, in fact, may vary depending on the price of oil, since a higher price may suddenly make some finds economically viable." The *Post* pointed out that EIA data on oil reserves "shows that proven U.S. reserves hit a peak of nearly 40 billion barrels in 1970 – after the Prudhoe Bay oil field was found in Alaska – and now stand at about 22 billion barrels. But here's the strange thing: the United States also had proven oil reserves of 22 billion barrels through much of the 1940's. How is that possible? New

sources of oil kept getting found, more-difficult-to-obtain oil suddenly became more viable, new oil-extraction techniques gained favor, and so forth. This brings us to our next category of oil: undiscovered technically recoverable resources. Oil companies cannot consider this oil an asset. Whether that oil will be recovered depends in part on technology and/or the price of oil." The *Post* pointed out that U.S. technically recoverable oil resources are at least a multiple of 8 times proven reserves, and that even that number is low because it does not include things such as the 800 billion in technically recoverable oil shale, as determined by the Rand Corporation, and other oil resources. After pointing out the oil consumption of other major nations, and their relative lack of oil reserves, the *Post* further stated, "measuring the U.S. consumption against its proven oil reserves makes little sense . . . In fact, in the relative scheme of things, the United States is relatively blessed with proven oil reserves – and, given the U.S. technological advantage, also with potentially large resources of oil yet to be tapped." As the *Post* concluded on March 14th, "This is a strange case because the facts are technically correct but are used in service of fuzzy thinking. . . . He is especially on shaky ground when he says 'no matter what we do, it's not going to get much above 3 percent.' The estimate of proven oil reserves may change at any moment depending on technological innovations and the price of oil." The *Post* therefore labeled the President's statement as "True but False." On March 21, after more speeches by the President making similar statements, the *Washington Post* revisited the issue and stated, "That's just simply wrong. The United States has the same number of barrels of proven oil reserves – 22 billion – today as it did in the 1940s. That's because new sources of oil kept getting found, more-difficult-to-obtain oil suddenly became more economically viable, new oil-extraction techniques gained favor, and so forth. . . . We hope he finally drops this specious logic from his talking points."

V. What do our oil and gas resources potentially mean to the U.S.?

It is clear that our nation benefits from developing oil and gas resources here at home. Existing domestic oil and gas development reduces our reliance on imported oil, directly supports over 9 million jobs, creates billions in new wealth every year, and generates over $13 billion for the Federal Treasury on an annual basis, not counting corporate and personal income taxes.

One might ask, "What is the value of these reserves and resources to the American people?" This can be measured in many ways. In addition to creating millions of new, high paying jobs, one important way to value these resources in these difficult economic times is that achieving American energy self-sufficiency will generate enough revenue for the Treasury from production of Federally-owned oil and natural gas resources, in royalties and corporate income taxes on that production, to more than pay off the entire national debt without use of any other tax revenues. However, these vast resources will never pay off any of the national debt if they are not made available for leasing, drilling and production.

The payoff of the national debt is only part of the U.S. federal taxpayers' share from the production of America's Federally-owned oil and natural gas resources. Much more wealth will redound to our citizens through high paying jobs, economic development, state and local taxes, and the economic benefit of the turnover of trillions of dollars that would have been sent to foreign countries.

VI. Closing

We continue to hear the old dogma that this nation cannot drill its way to energy self-sufficiency. The facts show that we could do just that, given adequate time to develop the

resources, if we had the national will to do it, but I don't know of anyone proposing that this nation rely solely on our hydrocarbon resources. But, as the Energy Information Administration recently reiterated, the United States and the world will rely on oil, natural gas, and coal for the vast majority of its energy resources for as far into the distance as EIA projects.

Yet, the American people have not seen a results-oriented national energy program determined to achieve North American energy self-sufficiency. Is it any wonder that the American people are unhappy and hurting? They want action. (A February 27, 2012, Rasmussen Poll found that 63% of American adults agree that reducing America's dependence on foreign oil is more important than reducing the price of gasoline.) They understand that the United States has abundant oil, gas and coal resources – in fact the largest in the world. They do not believe that their government is doing all that it can to produce the energy necessary to run this great country and provide for its energy, economic, and national security. (A March 23, 2012, Rasmussen Poll found that 70% of likely U.S. voters believe that the United States is not doing enough to develop its own oil and natural gas resources.)(A Pew Research Center for the People & the Press poll of American adults released on March 19, 2012, found that 65% support more offshore oil and gas drilling – even higher than before the Macondo blowout. 50% of Democrats, 64% of Independents and 89% of Republicans support more offshore oil and natural gas drilling.)

I congratulate the House of Representatives for passing major energy production legislation focused on the outer Continental Shelf, ANWR, and oil shale. I hope that the Senate will pass those bills, and I hope the Congress will go beyond that legislation and enact the Strategic Energy Production Act of 2012 and further act broadly and boldly to unlock the bountiful natural hydrocarbon and renewable energy resources that this nation has been blessed with. Permit

reform, opening the entire outer Continental Shelf to leasing, policy changes to make greater use of CO2 enhanced oil recovery, commercial lease sales for American oil shale and oil sands, use of commonsense NEPA categorical exclusions, gas and coal-to-liquids technology implementation, eliminating frivolous litigation, and other actions must be taken to achieve the nation's energy independence.

Thank you for the opportunity to testify and I would be pleased to answer any questions.

Mr. SHIMKUS. Thank you, Mr. Coleman, and Mr. Smorch, you are recognized for 5 minutes.

STATEMENT OF MATT SMORCH

Mr. SMORCH. Thank you, Mr. Chairman, for allowing me to testify and tell you about CountryMark and how the current regulatory regime affects our business.

CountryMark is Indiana's only American-owned oil refining and marketing company. We are a cooperative, and we are owned and controlled by our members who represent over 100,000 farmers in our market area. Our purpose is to ensure adequate supply of quality fuels to these farmers.

CountryMark, our refinery, is small. Only one-tenth the size of the average refinery in our region. Even though CountryMark is small, we have a big impact in our area. We purchase 100 percent American crude oil, providing $100 million of income per year to 40,000 local royalty owners. We supply over 75 percent of the agricultural market and 50 percent of the school districts in the State of Indiana. We employ nearly 450 workers, mostly in rural communities. We purchase nearly $200 million in products and services every year.

With everything combined, CountryMark's total economic contribution exceeds $2.5 billion per year. This value stays here in the United States and provides much needed jobs in mostly rural communities. We are not a fully-integrated oil company. We operate between two commodity markets, crude on one side, products on the other. CountryMark stays in business based on how well we can control our costs compared to other fuel suppliers.

Regulations and mandates increase operating costs, which makes our viability uncertain. My job is to analyze market trends and develop long-term strategies. Since I work for a cooperative, I do not own a piece of the company. I am here solely due to the longevity of CountryMark. I am a chemical engineer and have spent most of my career in refinery operations, so I have real world experience.

In my current role I have to look at the cumulative affects over a 10-year period of all regulations to make sure that money and credit is available when it is needed.

Today I would like to highlight two examples where regulations increased our costs.

First let me talk about sulfur and gasoline. In 2010, CountryMark constructed a process unit that reduced gasoline sulfur by 90 percent to meet the Tier 2 sulfur limit of 30 parts per million. We had to do this to be able to sell gasoline and stay in business. That unit cost $33 million, and its annual operating cost is $1.8 million.

Tier 3 requires gasoline sulfur reductions to 10 PPM. This will take an additional $15 million of modifications and more energy, in turn, increasing operating costs again. When averaged over a 10-year period, meeting Tier 2 costs $160,000 per ton of sulfur removed, while meeting Tier 3 will cost $200,000 per ton of sulfur removed.

This comparison demonstrates two things. The cost of compliance is high when based on the amount of pollutant that is removed, and also at each stage there are diminishing returns. By requiring

multiple reductions in different years, capital costs increase and are less efficient.

I would also like to talk about renewable fuels mandates. CountryMark blended biodiesel since 2005, and ethanol since 2008, because it made economic sense. The Renewable Fuel Standards changed the natural progression of these fuels by mandating a market. It is a very complicated rule. We either purchase and blend renewable fuels or purchase credits. Even though there are four distinct categories of renewable fuels, ethanol and biodiesel are the only two fuels that are available. Cellulosic biofuels don't exist.

Under the current rule CountryMark's estimated compliance cost for buying credits would be $9 million this year, but that increases to $64 million like the year 2021. We continue to blend ethanol and biodiesel for compliance but now at a loss. For example, to drive the demand for biodiesel we would have to sell it at the same price as diesel fuel. We purchase biodiesel at $5 a gallon and have to sell it for $3 a gallon at a loss of $2 for every gallon of biodiesel that we sell.

Over the next 10 years these two areas combined to increase our average cost to produce gasoline by 19 cents per gallon or diesel fuel by 22 cents a gallon. Our costs of operation have and will increase due to EPA regulation.

While fully integrated oil companies or larger refineries may be able to absorb these incremental costs, small business refineries like CountryMark cannot. If the market does not bear the additional cost with higher prices, refineries will go out of business. Jobs are lost, and gasoline and diesel prices still increase.

Sixty-six refineries have shut down in my 22-year career, and I happened to be at one of those before I came to CountryMark. It makes sense to let the experts determine the combined effects of all EPA regulation on the industry, the consumer, and the American worker.

CountryMark fully supports this legislation.

[The prepared statement of Mr. Smorch follows:]

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WRITTEN STATEMENT OF

COUNTRYMARK COOPERATIVE HOLDING CORPORATION

AS SUBMITTED TO THE

SUBCOMITEE ON ENERGY AND POWER

Committee of Energy and Commerce
United States House of Representatives

On

"The American Energy Initiative"

WEDNESDAY, MARCH 28, 2012

9:45 AM

Rayburn 2123

I. Introduction

Chairman Whitfield, Ranking Member Rush, and Members of the Subcommittee, thank you for giving me the opportunity to testify in today's hearing on the "The American Energy Initiative." I'm Matt Smorch and I serve as Vice President of Strategy for Countrymark Cooperative. As Congress proceeds with consideration of HR. ____, "The Gasoline Regulations Act of 2012," CountryMark believes it is important for Congress to know about the companies this legislation will impact and how this legislation will affect companies such as CountryMark.

CountryMark is Indiana's only American-owned oil refining and marketing company and is recognized nationwide as a leader in the distribution of biodiesel and ethanol. The CountryMark refinery uses 100% American crude oil sourced from the Illinois Basin located in Illinois, southwest Indiana, and western Kentucky. Our refinery processes 27,000 barrels of crude per day which represents only 0.15% of the entire domestic refining industry. Our capacity is $1/10^{th}$ the size of the average refinery in our region. Even though CountryMark is small from an industry perspective, we have a large impact on the State of Indiana. CountryMark supplies over 75% of the agricultural market fuels and 50% of school district fuels in the state.

CountryMark is owned and controlled by its member cooperatives that are in turn owned and controlled by individual farmers within our trade territory. Over 100,000 farmers in Indiana, Michigan, and Ohio participate in these local cooperatives who own CountryMark. CountryMark's Board of Directors is comprised of farmers. Each year, profits are distributed back to these farmers via the cooperative system. These distributions remain in rural communities where the dollars support local economies.

CountryMark is a Small Business Refiner, and along with most other small business refiners, we are located in a rural area. We therefore have our strongest economic impact in mostly rural communities. We purchase over $800 million of crude oil per year from the Illinois Basin. These purchases provide income to the 40,000 royalty owners in the Illinois Basin. Our products are sold and distributed through our branded dealer network providing solid employment throughout the rural communities of Indiana.

CountryMark's operations employ nearly 450 workers, mostly in the rural economy of southwest Indiana and southeast Illinois. In Posey County, Indiana alone nearly $27 million in wages and benefits are provided every year. These wages are over twice the local average and are paid mostly to hourly workers with little or no local opportunity for other employment equivalent to CountryMark.

In addition to the positive financial impact of CountryMark's crude purchases and payroll, the company placed over $200 million into the local economy for the purchase of other goods and services. With everything combined, CountryMark's total economic contribution exceeds $2.5 billion per year. This value stays here in the United States and provides much needed jobs in mostly rural communities.

All Small Business Refiners compete in a highly competitive global commodity market where imported products from foreign competition influence refining margins and economics. Unlike large, fully integrated oil companies, we only operate between two commodity markets: 1) the oil market; and 2) the gasoline market. We must purchase crude oil that is priced in the global market and refine it. We then sell our products into the gasoline market, which is a very sensitive, volatile market. Between these two markets, CountryMark is able to stay in business based on how well we control our costs compared to other fuel suppliers.

Regulations and mandates increase operating costs, which in turn negatively impact Small Business Refiners' ability to manage costs between the oil market and the gasoline market. This impact affects all refiners, but especially Small Business Refiners such as CountryMark. When a refiner cannot pass on or absorb these costs they go out of business. The result is reduced domestic refining capacity and higher gasoline costs for the consumer.

The following sections provide specific examples of how current and proposed regulations drive refiner costs up. These real costs are specific to CountryMark and broken down into three major categories: capital, operating, and product. Eventually, these additional costs are either passed on to the consumer in the form of increased gasoline or diesel prices, or the refinery goes out of business when the costs exceed the capitol reserves or credit of the refinery - in the case of a Small Business Refiner, reserve capital and credit are insufficient and do not provide a long term solution.

In addition, several regulations have conflicting consequences so our industry ends up in between the proverbial rock and the hard place. Regulatory development must be coordinated and use a holistic approach so cumulative costs are taken into account and unintended consequences are eliminated.

II. Ultra Low Sulfur Diesel and Low Sulfur Gasoline

EPA's Clean Air Highway Diesel rule and Non-road Diesel rule requires that only 15 ppm sulfur diesel fuel be sold on and off road. To achieve compliance with this requirement and continue to market diesel fuel CountryMark was required to construct and start-up a Distillate Hydrotreater (DHT) unit in 2006.

This project also included construction of sulfur recovery facilities resulting in a total cost of approximately $45 million. The annual operating cost for the DHT is $4.4 million.

EPA's Tier 2 Gasoline rules required that gasoline sulfur be reduced to 30 ppm. CountryMark was able to delay implementation of this project until 2011 due to obtaining a Small Business Refiner's extension. This extension only provided a brief delay. CountryMark has since constructed a Low Sulfur Gasoline (LSG) unit in order to continue to sell product and stay in business. The LSG unit cost was $33 million and has an annual operating cost of $1.8 million per year.

Tier 3 Fuels

CountryMark participated as a Small Entity Representative (SER) on Small Business Advocacy Review (SBAR) panels for both the Tier 3 Fuels and the "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standard (NSPS)" proposed rule makings. Meetings were held for both panels on June 28, 2011 and August 18, 2011. At the panel meeting, EPA proposed further lowering gasoline sulfur levels from 30 to 10 ppm, and to reduce Reid Vapor Pressure (RVP), the measurement of gasoline volatility.

Sulfur. CountryMark completed the construction and safe start-up of our Low Sulfur Gasoline (LSG) unit at the end of 2010. The LSG unit cost $33 million and based on the refinery gasoline blending requirements was designed to reduce Fluidized Catalytic Cracking (FCC) unit gasoline sulfur to meet the overall 30 ppm requirement. To meet the stricter 10 ppm sulfur requirement would require the following:

1. Potential capital cost of $10 million for modifications to the recently installed LSG unit due to needing an additional reactor.
2. Increased severity of LSG operation to further reduce FCC gasoline sulfur. This requires additional energy input which increases GHG emissions and costs over $200,000 per year for increased natural gas and catalyst costs.
3. Sulfur must also be removed from Alkylation unit gasoline. New equipment to accomplish this is estimated at an initial capital cost of over $5 million.

Resultant modifications will reduce approximately 12.7 tons of incremental sulfur in the first year at a cost of nearly $1.2 million per ton. Our existing LSG unit was built to comply with Tier 2 sulfur requirements and removes 45 tons of sulfur in the first year at a cost of $740,000 per ton.

A comparison of Tier 2 and Tier 3 sulfur requirements demonstrates two things: 1) the cost to remove sulfur from gasoline was extremely high when based on the amount of the pollutant removed; and 2) it would be more capital efficient to set the sulfur level at the lowest level from the start. Every time the reduction target gets incrementally moved it becomes more expensive on a pollutant removal basis. Being capital efficient is critical to CountryMark's and other small refiners' survival. By requiring multiple reductions in different years, capital costs increase. Multi-staged regulations have the potential to drive small refiners out of business because our capital reserves and credit are limited.

RVP. RVP reduction presents both significant financial risk and capital costs. CountryMark blends the majority of our gasoline with ethanol and meets a 9 pounds per square inch (psi) RVP limit, but relies on the 1 psi waiver for ethanol blending. This 1 psi waiver is critical to successfully meeting our renewable fuels obligation. Without the waiver, CountryMark would need to spend capital and sell butane at a significant economic penalty. Meeting the lower RVP requirement would have the following impacts:

1. Installation of a new distillation tower or replacement of an existing tower. Lowering the RVP will require additional energy which would increase GHG emissions. The capital cost for these modifications are estimated at $15 million and operating costs would increase by approximately $700,000 per year.
2. Butane production would increase but the capability to blend it into gasoline would be significantly reduced. CountryMark would either need to build additional storage capacity at significant capital cost or sell butane at depressed prices in the summer months. Selling butane compared to blending into gasoline has a penalty of over $3 million per year and would require upgrades to our existing rail loading facilities.

RVP reduction could potentially be required to also meet lower ozone levels if it is part of a state's implementation plan. In addition, without the 1 psi blend waiver for 15% ethanol blends, the RVP of the base fuel must be reduced. If all three items are promulgated separately, the likelihood of conflicting requirements greatly increases. Capital costs also greatly increase with segmented implementation. A coordinated implementation would ensure compliance efficiency and possibly mitigate capital costs.

III. Petroleum Refinery Sector Risk and Technology Review and NSPS

CountryMark participated as a Small Entity Representative (SER) on Small Business Advocacy Review (SBAR) panels for both the Tier 3 Fuels and the "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standard (NSPS)" proposed rule makings. Meetings were held for both panels on June 28, 2011 and August 18, 2011. The information that was provided as part of the "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standard (NSPS)" was inadequate for the purpose of providing flexibility options to the EPA from the SERs.

At the SBAR Panels, the following complex issues were discussed as potential items in the rulemaking: Risk Review; Maximum Available Control Technology (MACT)/NSPS Technology Review; NSPS for Greenhouse Gas (GHG); and other NSPS issues. The significant financial risks, capital costs, and operating challenges from these potential regulations are outlined in the following sections.

Risk Review. EPA issued an information request to every refinery in the industry in 2011. The manpower required to assemble all of the requested information was significant. The information was intended for use in an extensive refining-industry-wide risk model. Our understanding was the model would determine and identify the single refinery nationally with the highest risk which would then serve as EPA's proxy refinery for regulating the entire industry. For a Small Business Refiner like CountryMark, located in rural attainment areas with low population density, this approach would apply high population density and non-attainment regulations. This one-size-fits-all approach is clearly inappropriate and, if true, would further damage Small Business Refiners' ability to stay in business.

While at the time of the SBAR panel the specific emission standards or technology requirements were not identified, one issue was specifically proposed: fence line monitoring. CountryMark is in a rural community; there is considerable green space between the refinery and environmental receptors. Moreover, our refinery is small; therefore, our environmental footprint is smaller than the average size refinery. Fence line monitoring in our rural setting would be expected to be disproportionately expensive, and challenging to maintain because experienced analyzer technicians are difficult to hire in our area. Installing fence line monitoring at our refinery is estimated to have a one-time cost in excess of $150,000.

NSPS Section Ja and MACT versus EPA Enforcement's National Petroleum Refinery Initiative. EPA Enforcement continues to pursue its National Petroleum Refinery Initiative that focuses on New Source Review/Prevention of Significant Deterioration (NSR/PSD), NSPS, leak detection programs, and benzene.

As a result of this Initiative and the corresponding settlements reached, the refining industry has spent over $6 billion to install additional control technologies, paid $80 million in civil penalties, and paid $75 million in supplemental environmental projects. As part of this settlement initiative, refineries are required to change their operating air permit to ensure compliance. EPA Enforcement's goal is to "level the playing field" by having all refineries under settlement. Approximately 90% of the refining industry has modified their operation to conform to these settlements.

CountryMark is currently negotiating a settlement as part of the initiative. At this time, complying with the expected settlement agreement that addresses the four issues stated above would require capital expenditures of over $17 million for CountryMark. Operating expenses are also expected to increase by $1 million per year as a result of the expected settlement terms.

Settlement Initiative versus new regulation proposed at SBAR panels. Many of the proposed rule amendments discussed in the June 28th SBAR meeting overlap and possibly conflict with settlement requirements and potentially other rules. Two examples are: 1) Fluidized Catalytic Cracking (FCC) unit particulate emissions limits; and 2) Flare system flow limits.

From our understanding, NSPS Section Ja could limit FCC particulate emissions to 0.5 pound per 1000 pounds coke burn while our settlement has FCC particulate limits of 1 pound per 1000 pounds coke burn. The difference in these limits potentially drive technology requirements and resulting capital expense. NSPS Section Ja with lower FCC particulate limits would require an additional $15 million for the installation of required flue gas stack scrubbing technology. The incremental reduction in particulate material for a small FCC like CountryMark's is less than 10 tons per year at a cost exceeding $1 million per ton reduction in the first year. CountryMark's refinery is located in a rural farming community; our FCC represents a fraction of the area's particulate emissions, which are largely caused by dust from non-paved roads and farming activities or other manufacturing or mining operations in the area. This reality is not reflected in the proposed FCC particulate limits – in either the settlement or proposed rule.

NSPS Section Ja sets the flare system flow limit at 250,000 standard cubic feet per day. However, flare efficiency and minimization limits require natural gas to be introduced into the flare, thereby increasing flow rates and GHG emissions. Requiring additional natural gas to improve flare efficiency could potentially raise the flow above the limit set in NSPS Section Ja. This would trigger the need to install a

vent gas recovery system at a capital cost exceeding $10 million. Since these systems use compressors, electrical usage would increase with a corresponding increase in GHG emissions.

These two examples clearly illustrate how different requirements conflict and contradict each other. For CountryMark and other small refiners, compliance costs are disproportionately higher because we lack economies of scale. The total cost of compliance for NSPS Section Ja and a potential settlement agreement is estimated at a combined cost of $42 million with an additional $1 million per year of increased operating cost.

Greenhouse Gases (GHG). The rulemaking considers regulating GHG emissions as part of NSPS. With the tailoring rule, existing facilities with carbon dioxide emission exceeding 100,000 tonnes per year are required to obtain an updated operating permit and those facilities that would increase carbon dioxide emissions by 75,000 tonnes per year would trigger Prevention of Significant Deterioration (PSD) permit requirements. At the SBAR panel meetings, EPA outlined a plan to further reduce GHG emissions from refineries. Our understanding was that part of this program would be to set a maximum GHG limit on process heaters that would trigger implementation of Best Available Control Technology (BACT).

At a small facility like CountryMark's 27,000 barrel per day refinery, the average size of process heaters is approximately 30 MMBTU/Hr. They are natural draft design and air pre-heat would not be economical in either a retrofit or replacement scenario. If the GHG limit is set at a level equivalent to our average size process heater, it would be considerably more stringent than current requirements. Requiring BACT for small process heaters could result in 50% additional capital compared to current installation costs. Since most Small Business Refinery projects are sensitive to capital costs, this additional increase would make most modifications uneconomical; limiting or precluding growth at the refinery.

In addition to limited growth, there has been discussion of potential limits put on GHG emissions through implementation of a cap and trade regime. A GHG regulatory regime of the variety discussed in Congress in 2009 would be devastating to CountryMark. The first year compliance costs could exceed annual income, as was the case with some prior legislative proposals.

Other NSPS Requirements. Other requirements proposed in the SBAR panel address Leak Detection and Repair (LDAR) programs and benzene National Emissions Standards for Hazardous Air Pollutants (NESHAPs) requirements for wastewater facilities.

1. CountryMark has significant resources invested in our LDAR program. The current program includes over 6500 monitoring points. Adding the fuel gas system to the leak detection program would increase monitoring points by over 50%. Since we are nearly one hundred miles away from the nearest large refinery, we have little opportunity to use the same reputable contractors at a competitive cost. Therefore, our costs are disproportionately greater. Initial estimates show that the cost of the current program would increase by a minimum of $500,000 per year due to increased monitoring requirements.
2. Changing the wastewater amendment to require controls for less than 10 Mg Total Annual Benzene-in-waste (TAB) would require significant capital for CountryMark. Based on the estimates provided by the EPA, this could be in the millions. Definitive estimates could not be developed at this time because the proposed Benzene floor is not known. The Benzene requirement appears to be driven by the EPA risk review dealing with cancer and non-cancer risks from refineries. CountryMark's wastewater treatment area is not located near our property boundary. Combined with a low TAB, the risk is most likely lower than the threshold that would drive controls.

The total cost of compliance for our potential settlement is $17 million with an additional $1 million per year of increased operating cost. NSPS/MACT is estimated to exceed $28 million with an additional $1 million per year of increased operating cost.

IV. Renewable Fuels Standard

CountryMark has blended biodiesel since 2005 and ethanol since 2008. The decision to blend these renewable fuels was driven by customer demand and economics. The marketplace was working to drive the use of these fuels. The Renewable Fuels Standard (RFS) changed the natural progression of these fuels by mandating that obligated parties either purchase and blend ethanol and biodiesel or purchase Renewable Identification Number (RIN) credits. Even though there are four distinct categories of renewable fuels required, ethanol and biodiesel are the only products in commercial volumes that can be used to comply with this complicated rule. Cellulosic biofuels are not commercially available; therefore, obligated parties are required to purchase cellulosic waiver credits from the EPA for compliance.

CountryMark became an obligated party under the RFS in 2011. As an obligated party, CountryMark can calculate the cost of compliance by using the current RIN credit pricing and estimated annual standard requirements. Under the current rule, CountryMark's estimated compliance costs are $9 million in 2012 and increase to $64 million in 2021. The average cost of compliance for this period is nearly $31 million per year. Thirteen small business refiners were granted an additional 2-year extension for compliance based on economic hardship due to the RFS. However, since these costs increase over time, the hardship will only increase. As of today, we predict these costs will eventually drive some Small Business Refiners out of business.

V. Summary

In summary, the cumulative effect of current and proposed EPA regulations as estimated has significant current and future financial impact on CountryMark. Annually, CountryMark develops a 10-year outlook of potential capital spending. Table 1 provides a summary of costs for the planning period of 2010 through 2021. Capital is one-time costs while operating and product costs are on an annual basis. This is required to ensure adequate funding for capital requirements will be available when it is needed. During this economic downturn, credit markets are extremely tight and the volatility of the commodity market and uncertainty from a regulation standpoint makes funding for Small Business Refiners difficult.

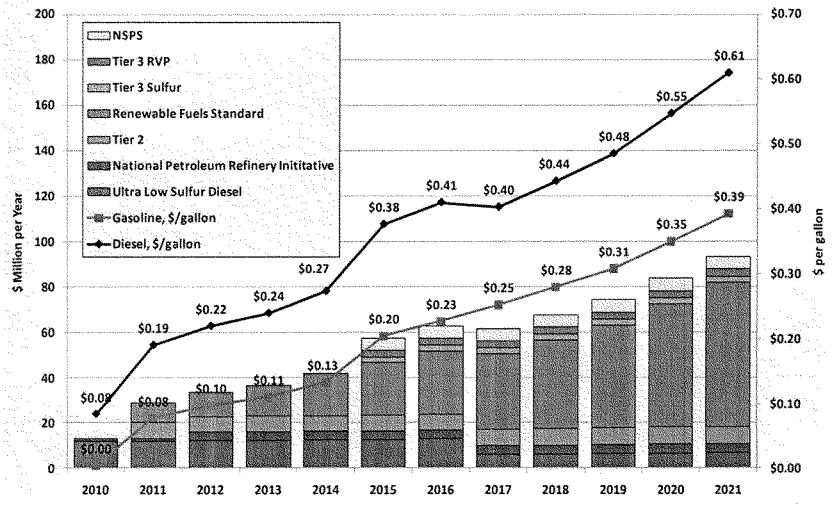
Table 1: Summary of Capital, Operating, and Product Costs

	Costs in $Million		
Regulation	**Capital**	**Operating**	**Product**
Ultra Low Sulfur Diesel	45	4.4	
Tier 2 Sulfur	33	0.4	
Tier 3 Sulfur	15	0.2	
Tier 3 RVP	15	0.7	3
Refinery Initiative	17	1.0	
NSPS	28	1.0	
Renewable Fuels Standard			31
Total	153	7.7	34

Figure 1 provides the cumulative impact of this spending and the potential impact on gasoline and diesel prices to the consumer. The annual operating cost includes a capital recovery factor which over time

extinguishes when the capital is recovered. However, the timing of current and proposed regulations overlap each other resulting in cumulative increases in cost when viewed in total. This is not to say that all of these costs will be passed to the consumer in every area. Fully integrated oil companies or larger refiners may be able to absorb these incremental costs and continue to maintain profitability. However, for Small Business Refiners like CountryMark these increases cannot be absorbed, they must be recovered. If the market does not bear the additional costs with high prices, eventually marginal refiners will go out of business. Jobs are then lost and gasoline and diesel prices go up. Refinery shutdowns due to lack of profitability are not new to our industry – 117 refineries (nearly half the industry) have shutdown since 1982 according to the Energy Information Agency.

Figure 1: CountryMark Annual Operating Cost and Effects on Gasoline and Diesel Costs



VI. Conclusion

CountryMark operates in a highly competitive commodity market where oil prices and refining margins are influence by global events beyond our control. Regulation and mandates increase capital requirements, operating costs, and product costs which in turn make refiners, especially those Small Business Refiners like CountryMark, less competitive. When refiners cannot pass on these costs to the

consumer, or absorb these costs, they go out of business. The result is reduced domestic refining capacity and consequentially higher gasoline and diesel costs for the consumer. If domestic refining capacity is reduced, EPA regulations will actually increase U.S. demand for imported fuels and consumer prices will increase.

Currently, EPA reviews and analyzes each regulation separately to determine the impacts on the industry. The current regulatory regime forces our industry to comply with a new rulemaking seemingly about every year or two. The new rules keep coming regardless of environmental improvements that have been made. New rules addressing current rules appear to be proposed before adequate time to determine the benefits of a current rule has occurred.

Industry on the other hand must analyze every aspect of the business including regulation in total. It is critical to understand what the cumulative effects of regulations and mandates are on the business and the timeline over which they will occur. Capital and expense that is spent on regulatory compliance cannot be spent on growth opportunities that lead to higher employment. If these costs cannot be absorbed or passed on to the consumer, refiners will shutdown. Either way, costs will increase in the long term as refining capacity is rationalized.

CountryMark fully supports the requirements of this legislation to take a time out and let the experts review the cumulative aspects of all EPA rulemakings and their effect on the consumer, the industry, and the American worker.

Table of Acronyms

BACT	Best Available Control Technology
DHT	Distillate Hydrotreater
FCC	Fluidized Catalytic Cracking
GHG	Greenhouse Gases
LDAR	Leak Detection and Repairs
LSG	Low Sulfur Gasoline
MACT	Maximum Available Control Technology
NESHAPs	National Emissions Standards for Hazardous Air Pollutants
NSPS	New Source Performance Standard
NSR/PSD	New Source Review Prevention of Significant Deterioration
PSI	Pounds per Square Inch
PSD	Prevention of Significant Deterioration
RVP	Reid Vapor Pressure
RFS	Renewable Fuels Standard
RIN	Renewable Identification Number
SBAR	Small Business Advocacy Review
SER	Small Entity Representative
TAB	Total Annual Benzene-in-waste

Mr. SHIMKUS. Thank you, Mr. Smorch, for your testimony, and I am going to recess the committee for such time as may be necessary to put this new microphone up and hopefully we can get it addressed quickly.

[Recess.]

Mr. SHIMKUS. Reconvene the committee, and Mr. Meyers, 5 minutes, please.

STATEMENT OF ROBERT J. MEYERS

Mr. MEYERS. Thank you. First I just want to thank the chairman and members of the subcommittee for the opportunity to be here, and I would ask that the full written statement be placed into the record.

My written testimony addresses the cumulative impact analysis required by the discussion draft pending Clean Air Act rulemakings affecting refinery sector and the projected timing for the new requirements, and I also address the parts of legislation that affect the promulgation of ozone standards.

What my bottom line conclusion is is that it makes sense to do a comprehensive analysis, and it also makes sense to do it at this time. A fundamental issue in this legislation as my experience tells me for a while is that any time you are dealing with the Clean Air Act you always have to face the challenge of why do we want to change anything.

And I can completely understand why EPA is taking the position that they do. They are charged with implementing the act. That is their role, but I wanted to clarify a couple of things from the first panel.

First, from my reading of the discussion draft, there is no rollback under the bill to affect current regulations, so my definition of rollback would be, you know, if you are affecting the current regulations. By definition you are looking at the effect of regulations in the future.

Second, I was also a little bit confused in terms of we are to understand that in terms of the Tier 3 rulemaking it has not been decided exactly what the regulations are but at the same time we know they cost less than a penny. The two don't go together because cost analysis is essentially derivative of what the regulatory standards are.

So my questions there go with respect to the current, if you look on current OMB iteration of the rulemaking, we are also dealing not only with residual authority in the act to set standards but 211(v) regarding renewable fuel standards and 211(h), which deal with volatility.

Now, they may not do volatility through other authoring act, but you also have the issue with the E–15 labor at this point in time, whether the current 1-pound waiver exists, and that could be another significant cost impact if based on the decision to allow E–15, if you don't allow a 1-pound waiver, you will have an effect of effectively decreasing the volatility of ethanol-blend gasolines by those two actions.

In any event, in terms of the general nature of the bill and in terms of looking at multiple pollutant strategies, this is something that the agency itself has talked about and advocated. Indeed, just

last fall the Clean Air Act Advisory Committee concluded that the time was right to take a more vigorous look at opportunities to align and optimize Clean Air Act regulations affecting individual sectors. That is an outside committee that advises EPA.

My written testimony outlines the nexus between the various rulemakings contained in the discussion draft, but I was trying to think of a simple analogy, and I think that it is mostly as taxes. As an individual we need to pay multiple tax levies, sales taxes, school taxes, property taxes, Federal, State, sometimes local, and Federal gas and State taxes, and I am certain that each of these taxes were initially enacted to convey a public benefit.

But it really their combined effect on individuals in our economy that we feel, not the individual levies themselves, although sometimes they can be painful.

So I don't see the intellectual leap it takes to support a comprehensive review of the cumulative impact of regulations. The bill does not require the government to do the impossible but instead allows reliance on available data.

Despite numerous executive orders, the plain fact of the matter is that such reviews aren't done. I will give you a few examples. In the latest transport rule EPA did not examine the effects of the current program, even though it is being implemented in over two dozen States. EPA's climate rules didn't examine the impact of the rule on stationary sources, even though the net effect of the rules, as was explained in the earlier panel, as a result of these determinations, now you need to have greenhouse gas permitting for large facilities.

And EPA doesn't consider NAAQS imposed costs on small businesses, State, local, or tribal governments or the private sector. Why? Because the prevailing view is that NAAQS did not directly impose regulations on sources. This is legally correct but analytically it is problematic.

So the basic question is why does this system of analysis make more sense and target the legislation to require assessment of the accumulated costs of regulating the petroleum sector? What is essentially so sacrosanct about the current way we consider costs and benefits?

My written testimony tries to point this out in detail, but basically in terms of the impact going forward I made a couple observations.

One, we got Tier 3. You are talking model 2017, cars and vehicles, other light-duty vehicles, so you are talking essentially approximately about 5 years from now before the effective date of standards.

In a similar fashion I understand EPA's current ozone regulations to require plans for regulations to require rules about 28 months from now. Under the reading of the bill you have got 13 months for the study, so it would seem to be that you do have enough time, well enough time to do a comprehensive study before the impact of regulations are going to be felt.

So I will sum up here by just saying that the last thing I think you should look at was March 20 memo from Cass Sunstein, head of OIRA, OMB Office, would direct the agencies to, "take active steps to take into account the cumulative effects of new and exist-

ing rules and to identify opportunities to harmonize and streamline multiple rules."

The discussion draft in large part implements this directive.

Thank you very much.

[The prepared statement of Mr. Meyers follows:]

Testimony of Robert J. Meyers

Crowell and Moring, LLC

Subcommittee on Energy and Power

"American Energy Initiative"

March 28, 2012

I would like to thank the Chairman Whitfield and the members of the Subcommittee for the opportunity to offer testimony concerning Clean Air Act ("CAA") regulations affecting petroleum refineries and the discussion draft under consideration, the Gasoline Regulations Act of 2012. I appreciate the Subcommittee's continuing review of national energy and environmental policy and the effect of various CAA regulations. I ask that my full written statement be placed into the record for this hearing.

My testimony addresses the cumulative impact analysis required by the discussion draft, the effect of the legislation on pending and future CAA rulemakings, the interrelationship of the affected rulemakings within the CAA, the projected timing and impact of CAA regulations on the petroleum refinery sector and provisions of the legislation that would affect the promulgation of new ozone National Ambient Air Quality Standards ("NAAQS"). I also address the nexus of this legislation to ongoing efforts at promoting effective regulatory analysis and reform.

I. Analysis Required by Draft Legislation

The discussion draft requires an analysis of the cumulative impact of Environmental Protection Agency ("EPA") regulations affecting the refinery sector and the impact of

greenhouse gas ("GHG") permitting on refineries and other facilities involved in the production, distribution, and transportation of gasoline and diesel. The analysis is to be conducted by an interagency committee, chaired by the Secretary of Energy. A preliminary report is required within 90 days of enactment of the legislation; a final report is required within 120 days of the preliminary report.

The draft looks at both domestic and international impacts. With regard to effects in the United States, the committee established by the legislation, the Transportation Fuels Regulatory Committee, is required to analyze changes in national, regional or state fuel prices, the required level of capital investment for new equipment, resulting operation and maintenance costs and effects on employment. Where feasible, the committee is to also assess other impacts on consumers, small businesses, public health and other matters. As to international impacts, the committee is charged with assessing the impact of covered rules and GHG permitting on global economic competitiveness and domestic refining capacity. In other words, the committee is to examine how new regulations and GHG permit requirements will affect jobs and the number of refineries that will be able to operate in the United States.

Rules to be analyzed by the committee are:

- The "Tier 3" motor vehicle and fuel standards that are currently under development. Although the text of these rules has not been made public, they have been described on EPA's Regulatory Gateway[1] and are listed on the Office of Management and Budget's

[1] EPA's Regulatory Gateway lists major "priority rulemakings" for different topic areas where the agency has legislative authority. The site can be found at: http://yosemite.epa.gov/opei/RuleGate.nsf/

"Unified Agenda."[2] The focus of the rules is to establish "follow-on" requirements for light duty vehicles covering Model Years 2017 to 2025 and to promulgate certain fuel standards. EPA lists authority for the rules as sections 202(a) and 211(v) of the CAA.

- Rules proposed after March 15, 2012 regarding New Source Performance Standards ("NSPS") and Maximum Achievable Control Technology ("MACT") standards. The NSPS program authorizes the "best system of emission reduction" for source categories and must take into account the cost of achieving reductions and nonair quality health and environmental impacts as well as energy requirements. NSPS currently exist for refineries; the CAA requires that EPA review such standards and, if appropriate, revise existing standards every 8 years. MACT standards address hazardous air pollutants. Once established, they are subject to a review of residual risk and are also subject to technology reviews every 8 yrstd.

- Rules proposed after March 15, 2012 regarding the implementation of the Renewable Fuel Program ("RFS"). The RFS was established by the Energy Policy Act of 2005 and amended and expanded in the Energy Independence and Security Act of 2007 ("EISA"). While regulations to implement the RFS program were promulgated in 2007 and 2010[3], there are a number of additional rules that are required under CAA section 211(o) on a recurrent basis.

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[2] The "Unified Agenda of Federal Regulatory and Deregulatory Actions" is produced semi-annually and can be found at http://www.reginfo.gov/public/do/eAgendaMain.

[3] 72 Fed. Reg. 23.900 (May 1, 2007); 75 Fed. Reg. 14,670 (March 26, 2010).

- The 2008 final rule establishing the ozone NAAQS, the 2011 "reconsidered" ozone NAAQS and subsequent rules revising the ozone NAAQS. Ozone is one of six "criteria" pollutants that are regulated pursuant to CAA section 109. While NAAQS are not directly applicable to sources such as refineries, the CAA otherwise requires states to develop State Implementation Plans ("SIPs") that impose various requirements on sources in order to bring "nonattainment" areas into compliance and to maintain ambient air quality in areas that meet NAAQS.

The committee is also required to analyze permitting actions for GHGs for facilities involved in the production, transportation or distribution of gasoline and diesel fuel. In specific, the legislation addresses Prevention of Significant Deterioration ("PSD") and Title V permitting actions taken on or after January 1, 2009. PSD permits are required for the construction of "major" facilities and the "modification" of existing facilities.[4] Title V operating permits are required for major sources (which are interpreted by EPA to include sources that emit or have the potential to emit 100 tons per year of any air pollutant subject to regulation).[5]

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[4] "Modification" is a defined term in CAA section 111(a) and refers to "any physical change in, or change in the method of operation of, a stationary source which increases the amount of air pollution emitted by such sources or which results in the emission of any air pollutant not previously emitted."

[5] For GHGs, EPA has temporarily defined PSD permitting thresholds to be 100,000 and 75,000 tons per year of carbon dioxide equivalent ("CO_2e") emissions depending on whether a facility is being newly constructed or modified. These levels are in contrast to the 250 and 100 ton per year ("tpy") levels applied to "conventional" pollutants. 75 Fed. Reg. 31,514 (June 3, 2010). For purposes of Title V, EPA applies a 100,000 tpy CO_2e threshold. *Id.* at 31,524.

II. Effect on the Timing of Pending/Future Rulemakings

The discussion draft provides that the EPA shall not finalize certain identified rules until 6 months following the submission of the required analysis to Congress. These rules are the Tier 3 rule, rules proposed after March 15, 2012 under CAA sections 111 or 112 and any rule revising or supplementing the ozone NAAQS. Under the timing contemplated in the legislation, the identified rules could not be promulgated as final rules for approximately 13 months.[6]

If the schedule provided in the legislation is achieved, any delay in EPA's rulemaking activity should be either non-existent or minimal. The Tier 3 rulemaking, for example, is designed to address vehicle standards that take effect, at the earliest, nearly five years from today's hearing. While EPA normally allow several model years from the date of rule promulgation to compliance, for vehicles or engines other than heavy-duty, the CAA requires only that sufficient time be allowed for the development and application of requisite technology.[7] In this regard, EPA's last rulemaking to address GHG emissions from vehicles allowed less than 8 months from the date of Federal Register publication to the first compliance period for Model Year 2011.[8]

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[6] It should be noted both the preliminary and final reports are subject to requirements that occur "not later" than 90 days and 60 days, respectively.

[7] CAA section 202(a)(2).

[8] 75 Fed. Reg. 25,324 (May 7, 2010).

EPA's current schedule for promulgation of a final revised ozone NAAQS is also over two years away with a final rule projected for July 2014.[9] Thus, since the legislation affects only final rules and not the NAAQS development process or the publication of proposed rules, it is possible that the bill will have no effect on the schedule for the ozone NAAQS review depending on its date of enactment.[10] With respect to the timing of final CAA section 111 and 112 rules, EPA's contemplated schedule is less clear, but it appears that final GHG NSPS standards will not occur this year, allowing sufficient time for a cumulative analysis.[11]

III. Ozone NAAQS Revision

As noted above, Section 6 of the discussion draft requires that EPA take into consideration "feasibility and cost" in revising or supplementing primary or secondary ozone NAAQS. It should be noted that this provision would result in fundamental changes to the current process for reviewing and considering revisions to NAAQS under CAA section 109. CAA section 109 provides that primary NAAQS are to be "based on such criteria and allowing

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[9] *Update on National Ambient Air Quality Standards*, EPA-A&WMA Information Exchange, November 29, 2011 at 3.

[10] Section 6 of the legislation, however, requires the Administrator to take into consideration the feasibility and cost of revising or supplementing primary or secondary ozone NAAQS. To the extent that this provision would be interpreted by EPA to require additional analysis beyond the analysis currently being undertaken, it is possible that the provision could result in some delay with respect to a final standard.

[11] EPA has proposed amendments to heat exchange requirements under CAA section 112 as a result of a 2009 petition for reconsideration. 77 Fed. Reg. 960 (January 6, 2012). EPA also entered into a settlement agreement concerning a petition for reconsideration of refinery NSPS that requires a final rule by November 10, 2012 to address various subparts of the current NSPS and establish standards of performance for GHGs. However, EPA did not meet the deadline for sending a proposed rule on GHG standards to the Office of the Federal Register and the Administrator has indicated that final rules should not be expected this year.

an adequate margin of safety, are requisite to protect the public health." Secondary NAAQS are to be "requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air."

It is beyond the scope of this testimony to recount the long CAA history of the interpretation of CAA section 109 and relevant litigation. With respect to the consideration of cost, however, the Supreme Court ruled in *Whitman v. American Trucking Associations* that "[t]he text of § 109(b), interpreted in is statutory and historical context and with appreciation for its importance to the CAA as a whole, unambiguously bars cost considerations from the NAAQS-setting process."[12] Enactment of Section 6 would obviously directly impact this legal interpretation.

At the same time, however, it is clear that EPA has regularly projected the costs and likely nonattainment areas resulting from different alternatives or proposed NAAQS during the Agency's CAA section 109 review process. These projections can be found in both the agency's final regulatory impact documents as well as staff papers[13] and other briefing materials. Indeed, as part of the 2009-2011 reconsideration of the ozone NAAQS, EPA projected the number of counties that would not attain a 0.70 ppm ozone and 18 ppm-hrs secondary standard.[14] Thus, while an EPA Administrator is to act in his or her judgment, without the consideration of the

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[12] 531 U.S. 457, 473.

[13] *See,* for example, *Review of the National Ambient Air Quality Standard for Ozone; Policy Assessment of Scientific and Technical Information*, Appendices to OAQPS Staff Paper, July 2007 at Appendix 6a.

[14] *Regulatory Impact Analysis, Final National Ambient Air Quality Standard for Ozone*, U.S. Environmental Protection Agency, Office of Air and Radiation, July 2011 at 12.

costs of compliance and without reference to projected difficulties in bringing various nonattainment areas into compliance, it is clear that the issue of cost and the feasibility of establishing a new or revised NAAQS has remained in the background analysis of the Agency's decisionmaking process. At best, this places EPA Administrators in a difficult position where they must ignore the very information that many in the regulated community (and officials in many states and communities which must implement NAAQS) consider to be highly relevant to the consideration of what final decision should be made.

IV. Interrelationship of EPA Rulemakings

The discussion draft recognizes that a number of separate regulations, promulgated and implemented under different sections of the CAA, could combine with greatly increased permitting burdens on the refinery and fuel distribution sector to impose substantial costs on the production and supply of transportation fuels in this country. Near-term costs of Tier 3 regulations and other stationary source requirements will include the design, planning and regulatory approval of new refinery equipment and emission control devices. Longer-term costs as a result of stationary source controls will be experienced in the form of continued operation and maintenance of installed systems. In addition, as mentioned above, states may impose additional controls on refineries driven by the need to submit approvable SIPs to EPA in order to attain the current ozone NAAQS and any revised ozone NAAQS. The net result is not only increased prices for gasoline and diesel -- but a substantial impact on cost of refining crude oil in the United States. This could realistically result in an increase in offshore production of refined products that are imported into the United States.

With respect to the specific rules for which cumulative analysis is required, there is a strong nexus between the rules identified in the discussion draft:

- The Tier 3 rulemaking and ozone NAAQS are directly linked. Although EPA's description of the Tier 3 rulemaking has varied[15], its most recent statement indicates that the Tier 3 rule would "help state and local areas attain and maintain the existing health-based air quality standards in a cost-effective and timely way."[16] EPA previously analyzed additional mobile source controls in connection with the promulgation of the 2008 ozone NAAQS, including such measures as lowering the volatility of gasoline and increased diesel retrofits.[17]

- According to EPA analysis, the RFS program has an impact on local air quality, attainment of the NAAQS and mobile air toxics. While EPA has not completed a

[15] EPA has cited CAA section 211(v) as authority for the rulemaking and described the Tier 3 rule as establishing "new standards for light-duty vehicles and their fuels in order to reduce emissions of criteria and toxic pollutants and their impact on air quality and health." *See* Rulemaking Gateway referenced *supra* note 1. CAA section 211(v) requires EPA to determine whether the renewable fuel volumes required by CAA section 211(o) "will adversely impact air quality as a result of changes in vehicle and engine emissions of air pollutants regulated under this Act." However, EPA has recently stated that the only fuel requirement that is being considered for Tier 3 is adjustment to the amount of sulfur in gasoline, seemingly in contradiction to its earlier reliance on section 211(v) authority which is based on the assessment of renewable fuel impacts.

[16] Letter to Chairman Ed Whitfield from EPA Assistant Administrator Gina McCarthy, February 27, 2012.

[17] See *Final Ozone NAAQS Regulatory Impact Analysis*, Appendix 3; Additional Control Strategy Information and Appendix 7a: National Baseline Sensitivity Analysis, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, March 2008.

study on this matter required as part of EISA, regulatory impact analyses conducted for the RFS 1 and RFS 2 rulemaking have outlined projected increases in emissions of nitrogen oxides, formaldehyde, acetaldehyde and 1,3 butadiene and decreases in emissions of volatile organics, carbon monoxide and benzene as a result of increasing use of renewable fuels.[18]

- While NSPS and MACT standards are focused on emissions from facilities rather than requirements related to the content and composition of transportation fuel, implementing fuel content standards and new standards for facilities will require coordinated efforts occurring in the same timeframe. This is because both types of standards may involve the installation of additional control equipment (*e.g.*, such as the installation of new hydrotreating equipment to lower sulfur in gasoline in order to meet Tier 3 requirements or the need to address refinery flares or equipment leaks in the context of new NSPS). In addition, additional expenses for compliance will occur during the same timeframe (*e.g.*, the RFS imposes costs each year by requiring the purchase of renewable fuel or Renewable Identification Numbers; maintenance associated additional equipment standards, required work practices, as well monitoring and reporting expenses also occur on a continual basis following the promulgation of an NSPS or MACT).

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[18] *Renewable Fuel Standard Program (RFS 2) Regulatory Impact Analysis*, U.S. Environmental Protection Agency, Office of Transportation and Air Quality, February 2010 at 508; *Regulatory Impact Analysis: Renewable Fuel Standard Program*, U.S. Environmental Protection Agency, Office of Transportation and Air Quality, April 2007 at 124.

- NSPS standards serve as a "floor" for the analysis of the Best Available Control Technology standards applied under the PSD program.[19] Thus, EPA promulgation of a revised NSPS will have a far-reaching effect on individual permitting decisions for both GHG and non-GHG emissions. This effect would be expanded under a consent agreement in which EPA committed to proposing and finalizing standards for new facilities, as well as issuing guidelines for existing facilities which are regulated under state plans required under CAA section 111(d).[20]

- Requirements to analyze GHGs in the context of PSD permitting may need to be reconciled with other CAA objectives. To date, EPA has not precisely defined what may be required with respect to addressing GHGs in refinery permitting actions, but instead the Agency has issued general guidance[21] and an industry specific "White Paper."[22] The Agency recently commented, however, with regard to PSD requirements in the construction of a crude oil refinery in South Dakota. In this context, EPA noted that the state permitting agency placed a "higher

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[19] CAA section 165(a).

[20] Item 2 of Settlement Agreement between the U.S. Environmental Protection Agency, State and environmental petitioners, December 2010 at 4.

[21] *PSD and Title V Permitting Guidance for Greenhouse Gases*, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, EPA-457/B-11-001, March 2011. This guidance document prominently states that it is not a rule or regulation and "may not apply to a particular situation based upon the individual facts or circumstances . . . [and] does not establish legally binding requirements in and of itself."

[22] *Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from the Petroleum Refining Industry*, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, October 2010.

emphasis on reducing emissions of criteria pollutants . . . which have a NAAQS than carbon dioxide.[23] While it is unclear whether EPA's comments have any import beyond the specific permitting action in which they were rendered, they do raise the issue of the relative benefits and costs of addressing GHGs and non-GHG emissions in the same permitting action.

V. Benefits of Cumulative Analysis

A. Cost Analysis

While is EPA currently subject to various analytical requirements that are either statutory or required pursuant to Executive Orders[24], current regulatory analysis has generally been constrained to projecting the effects of an individual rulemaking and/or various regulatory options contained within an individual rulemaking. Such analysis often utilizes a "base case" that includes projections regarding current regulations, but does not take into account other regulations that may realistically occur during the timeframe analyzed.[25] In general, the base

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[23] *Comments on Revised Draft Prevention of Significant Deterioration (PSD)Permit No. 280701 – Permit to Construct Hyperion Energy Center*, United States Environmental Protection Agency Region 8, April 1, 2011.

[24] Executive Orders 12866, 13132, 13045, 13211 and the Regulatory Flexibility Act and the Unfunded Mandates Reform Act require that various analysis be conducted depending on whether a regulatory action is economically "significant" or would otherwise affect certain defined entities.

[25] This is not always the case, however. In the RIA for the Cross-State Air Pollution Rule, EPA assumed that a pre-existing program, the Clean Air Interstate Rule was not in effect. See *Regulatory Impact Analysis for the Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States; Correction of SP Approvals for 22 States*, U.S. EPA, Office of Air and Radation, June 2011 at 30.

case is intended to facilitate analysis of the effect of the intended rulemaking in isolation, and to provide a method for measuring relative costs and benefits.

By requiring that cumulative costs of rules and actions affecting the fuel industry be examined, the discussion draft would provide Congress and the public with a much more robust analysis than that which is currently produced. The analysis would be required for two "outyears," 2016 and 2020. This time period is generally aligned with the timeframe for which a newly revised NAAQS would be finalized and implemented.[26] It is also aligned with the time period for which new MACT standards for existing sources would take effect and would represent both the year before and three years after new Tier 3 standards are contemplated. While it is difficult to project when GHG permitting actions would occur since such actions are facility-specific, any finalized NSPS standards would also be operative during this period if promulgated by the Agency.

The legislation also requires discussion and, where feasible, an assessment of the cumulative impact on consumers, small businesses, regional economies, state, local and tribal governments, low income communities and labor markets. Again, such fine grain analysis is often beyond the scope of EPA regulatory analysis. Rather than require the Transportation Fuels and Regulatory Committee to do the impossible, however, the legislation also specifies that the committee is not required to create data or use data that is not readily accessible. In addition, a cumulative assessment of costs would make an important contribution to the understanding of

[26] EPA currently indicates that it will complete its CAA section 109 review of the existing ozone NAAQS and propose any revisions to the standard by October 2013 with a final rule scheduled for July 2014. Under this schedule, EPA would be required by CAA section 107(d) to promulgate the designation of any new ozone nonattainment areas by mid-to-late 2016. Compliance with the new standard could be required as early as 2019.

current regulatory efforts. It would recognize that gasoline, diesel, various blendstocks and renewable fuels are international commodities, and that domestic policies can have not only a direct impact on fuel prices at home, but also affect the ability of U.S. companies to both invest in this country and compete with foreign competitors.

B. Benefits Analysis

The discussion draft also requires analysis of cumulative benefits. As it does with respect to costs, EPA currently analyzes the projected benefits of its rules, but not in a cumulative fashion. For criteria pollutants and other non-greenhouse gas emissions, projected benefits are normally based on assessment of the resulting effect on ambient air, or that air to which the public has access. For NAAQS, EPA has calculated health benefits with respect to various projected health endpoints at different levels of ambient air quality.[27] The legislation, however, does not specify whether this protocol or other methodology may be used, thus leaving such matters to the decision of the committee.

With regard to GHGs, it should be noted that the regulatory analyses that have been completed have not used benefit calculation methodologies that are the same as those used for "conventional" emissions. For example, the EPA has not calculated a precise benefit for the reduction of various GHGs, but instead has utilized a range estimate with respect to carbon dioxide ("CO_2") emissions. For CO_2, current interagency methodology utilizes the concept of a "social cost of carbon," but cost estimates as measured from the low end to the high end differ by

[27] For example, in the draft Regulatory Impact Analysis for the reconsidered ozone standard, EPA analyzed benefits for three different ozone standards set at 0.65 parts per million (ppm) and 0.70 and 0.75 ppm. *Regulatory Impact Analysis, Final National Ambient Air Quality Standard for Ozone*, U.S. Environmental Protection Agency, Office of Air and Radiation, July 2011 at 22.

a factor of 13.[28] Thus, it may be less clear how cumulate benefits for GHGs would be calculated under the legislation, but this is not intrinsic to the legislation. Instead, it is reflective of the current range of uncertainty in such estimates.

C. Current Regulatory Policies

In assessing the draft legislation, it is clear that current regulatory policies express a similar objective to bring rational analysis to rulemakings that have a major impact on our nation's economy. I would point to three separate factors and events:

First, on January 18, 2011, the President signed Executive Order 13563 ("E.O. 13563"), *Improving Regulation and Regulatory Review*.[29] The order expressed general principles of regulation including the protection of public health, welfare, safety and the environment while promoting economic growth, innovation, competitiveness and job creation. Among other elements of the order were a directive to use the "best, most innovative, and least burdensome tools for achieving regulatory ends [and] to take into account benefits and costs, both qualitative and quantitative." The order required, to the extent permitted by law, that agencies tailor regulations to impose the least burdens "taking into account, among other things, and to the

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[28] In various regulatory analysis for greenhouse gases, EPA has attempted to calculate the "social cost of carbon." This measure is described as including several effects including net changes in agricultural productivity, human health, damage to property damages and changes in the value of ecosystem services. EPA's draft analysis for the reconsidered ozone standard included a range of $5 to $67 per metric ton of CO_2 emissions. *Draft Regulatory Impact Analysis: Proposed Rulemaking for 2017-2025 Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards*, Office of Transportation and Air Quality, November 2011 at 7-3.

[29] 76 Fed. Reg. 3,821 (January 21, 2011).

extent practicable, the costs of cumulative regulations."[30] The discussion draft therefore provides legislative authority consistent with the objective of obtaining a cumulative analysis of the multiple regulatory burdens facing the nation's fuel industry.

Second, on September 2, 2011, the Office of Management and Budget ("OMB") returned a final rule revising the ozone NAAQS to EPA. In the letter accompanying the returned rule, the Director of the OMB Office of Information and Regulatory Affairs, Cass Sunstein, referenced the emphasis of E.O. 13563 the promotion of regulatory "predictability and reduce[d] uncertainty." He also noted that Executive Order 12866, incorporated within E.O. 13563, "states that each 'agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations'". Again, the discussion draft would provide clear authority and direction for the administration to take action consistent with these principles.

Finally, on March 20, 2012, Cass Sunstein issued a memorandum affirming the importance of E.O. 13563 and directing agencies to "take active steps to take account of the cumulative effects of new and existing rules and to identify opportunities to harmonize and streamline multiple rules."[31] The memorandum directs federal agencies to give "[c]areful consideration, in the analysis of costs and benefits, of the relationship between new regulations and regulations that are already in effect." In addition, the memorandum specifies that efforts should be made to address the "[c]oordination of timing, content, and requirements of multiple

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[30] *Id.* at Section 1(b).

[31] *Memorandum for the Heads of Executive Departments and Agencies, Cumulative Effects of Regulations*, Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, March 20, 2012.

rulemakings that are contemplated for a particular industry or sector, so as to increase net benefits"[32] Section 2 through 5 of the discussion draft is directly responsive to these concerns.

VI. Conclusion

It is clear that any effort to address CAA requirements is likely to be contentious and subject to extensive debate, especially when those requirements involve standards for the control of GHG emissions or affect the promulgation of NAAQS. But it is an effort well worth undertaking. It has been nearly 22 years since Congress considered and enacted comprehensive amendments to the CAA. In that time period, various individual requirements have combined to subject various sectors of the economy to multiple requirements. Requiring the analysis of the combined effect of multiple regulations makes eminent sense from both a public policy and economic perspective.

The discussion draft would provide valuable information concerning the real-world, cumulative impact of regulations affecting a vital sector of our nation's economy: the production of gasoline and diesel. While current regulatory analysis is in many cases informative, it is limited by the scope of the analysis to the effect of the specific rulemaking under consideration. A broader analysis of the entire sector could provide vital insights into the interactions of various rulemakings and, if the legislation is promptly passed and implemented, the analysis can be accomplished within a timeframe that would have minimal impact on the current schedule for promulgating final regulations.

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[32] *Id.* at 2.

Mr. SHIMKUS. Thank you, Mr. Meyers.
Mr. Innis, you are recognized for 5 minutes.

STATEMENT OF NIGER INNIS

Mr. INNIS. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Minority Member Rush, members of the committee, I want to thank you for the opportunity to address the committee today. I also want to thank your crack technical team for getting our mikes up and running.

I am here in my capacity as co-chairman of the Affordable Power Alliance and national spokesman for the Congress of Racial Equality, one of our Nation's oldest civil rights organizations.

In 2007, CORE's National Chairman, Roy Innis, wrote the book, "Energy Keepers, Energy Killers: The New Civil Rights Battle." The premise of my chairman's book is that the final frontier of the civil rights revolution is the fight for economic opportunity and that access to reliable, affordable sources of energy is integral to providing that economic opportunity. Conversely, when energy prices are raised due to the market or unfortunate government policy, that final frontier becomes all the more difficult to reach.

And that makes high energy prices, be it gasoline for our cars or electricity for our homes, an assault on the people's ability to exercise their fundamental civil rights.

The book, "Energy Keepers Energy Killers," inspired the formation the Affordable Power Alliance. This alliance is led by the Congress of Racial Equality and was joined by the High Impact Leadership Coalition of Churches, the 60 Plus Association, the 2-decade old Senior Citizens Advocacy Group, and the National Hispanic Christian Leadership Conference, which is the largest Hispanic Christian organization in the country with a network of over 30,000 member churches.

The Affordable Power Alliance campaign has promoted the message that affordable energy is a critical element of today's civil right struggle because energy is the master resource that reaches into every facet of our lives. We cannot tolerate bureaucratic bans and regulations that separate people from that desperately-needed affordable energy. Affordable energy is not only a vital resource, it is a moral imperative.

Rising energy prices disproportionately discriminate against the poorest and most disadvantaged among us. People don't want energy welfare. They want affordable energy. They want affordable prices based on abundant supply, not government subsidies and certainly not artificially-high prices based on bureaucratic bans and regulations.

EPA's current automotive standards enacted in 2000 and implemented beginning in 2004 already require vehicles to be 77 to 95 percent cleaner and reduce the sulfur content of gasoline by up to 90 percent. As for fuel efficiency, fuel economy which has been discussed a great deal today, these standards, the EPA admits already, they will raise automobile sticker prices by $1,000 by 2016, and $3,000 by 2025. Industry estimates are often higher. These higher sticker prices would disqualify nearly 7 million working class Americans and potentially new car buyers. You can't get the fuel savings if you can't afford the car in the first place.

The legislation before this subcommittee, I believe, we, the Affordable Power Alliance and the Congress of Racial Equality believe will help America produce affordable and reliable energy for all its citizens.

Mr. Chairman, the Affordable Power Alliance and CORE are not here today with an economic plea. We are here to give our support to these measures as a moral imperative to remove the bans and regulations that now force energy prices beyond the means of millions of decent, worthy Americans.

I see that I have a little bit more time. Very quickly, we have made a tremendous amount of progress in our country. Minority Member Rush, Congressman Rush was a part of that great civil rights revolution, along with my father and many others, that changed this country for the better. It would be tragic if the social and the political activity and progress that we have made as a country would be balanced off with a stifling of economic mobility which has been the hallmark of making this country the greatest country on Earth.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Innis follows:]

Testimony of Niger Innis

Co-Chairman, Affordable Power Alliance

National Spokesman, Congress of Racial Equality

before the

Subcommittee on Energy and Power of the Committee on Energy and Power

The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices

March 28, 2012

Chairman Whitfiled, Ranking Minority Member Rush, and members of the committee, I want to thank you today for this opportunity to address you. I am here in my capacity as Co-Chairman of the Affordable Power Alliance and National Spokesman for the Congress of Racial Equality, one of nation's oldest civil rights organizations. In 2007, CORE's National Chairman, Roy Innis wrote the book Energy Keepers, Energy Killers: the new civil rights battle. The premise of my chairman's book is that the final frontier of the civil rights revolution is the fight for economic opportunity, and that access to reliable, affordable sources of energy is integral to providing that economic opportunity. Conversely, when energy prices are raised due to the market and/or unfortunate government policy, that final frontier becomes all the more difficult to reach. And that makes high energy prices, be it gasoline for the car or electricity for the home, an assault on the people's ability to exercise their fundamental civil rights. The civil rights for all Americans are found in the most famous phrase from the Declaration of Independence, that among the inalienable rights of man is the right to life, liberty and the pursuit happiness. Essentially, we take that to mean that the right to climb the ladder of economic opportunity is to expand individual liberty. When energy prices go up, who gets hurt disproportionately? The

poor and disadvantaged, of course – the very people who can least afford it. Energy is the "master resource" – that makes virtually all other human activity in our modern society possible. It transforms constitutionally protected rights into privileges that we actually enjoy: jobs, homes, transportation, healthcare, modern living standards, and other earmarks of life, liberty and the pursuit of happiness. When we have abundant, reliable, affordable energy, much is possible. Without it, hope, opportunity and progress are hobbled. Laws and policies that restrict access to America's abundant energy supply, inevitably drive up the price of energy and consumer goods. They cause widespread layoffs, leaving unemployed workers and families struggling to survive, as the cost of everything they eat, drive, wear and do spirals out of control.

Energy Keepers Energy Killers, inspired the formation the Affordable Power Alliance. This alliance, led by the Congress of Racial Equality was joined by the High Impact Leadership Coalition of churches, 60 Plus, Pat Boone's and Jim Martin's 2 decade old senior citizens advocacy group and the National Hispanic Christian Leadership Conference, the largest Hispanic Christian organization in the country with a network of over 30,000 member churches. This campaign - launched at the end of 2007, has promoted the message that affordable energy is a civil right in over three dozen states across our country, in Canada and in Brazil. In the spring and summer of 2008 our alliance - along with hundreds of thousands of Americans - leveraged pressure against then-President George W. Bush and Congress that would lead to the lifting of a nearly 3 decade old Executive ban on offshore drilling. Not surprisingly the market responded as the price on a barrel of oil dropped $16.00 or 12% within weeks of the President's announcement as the world oil market realized America was going to get serious about developing our own energy resources. And why not, the rest of the world is doing the same.

Countries like Italy are going to double their dependence on coal to supply their electricity, Europe is predicted to open 50 coal fired power plants over the next 5 years. Even, Brazil, the poster boy for renewable energy, ethanol, has gone full speed ahead at developing its massive reserve of oil of the coast of Rio De Janeiro that could give them more oil reserves than Exxxon Mobil. And they, unlike us, are drilling there and drilling now. Not to mention that booming developing economies India and China build the equivalent of a 400MW coal-fired power station every three days, and, due to lax regulations and inferior technology, produce energy in a far more environmentally harmful way than we do here,

These countries, like the Affordable Power Alliance, realize that abundant reliable energy - renewable and traditional - is the leverage needed to liberate their populations from poverty. Some say that government efforts to tax and regulate the production and delivery of energy, which can lead to higher prices are ultimately offset by government energy subsidies, like LIHEAP and ultimately protects the health of the poor. I ask those people, isn't economic well being also a part of a community's health.

Let me give you one statistic that illustrates my point, on energy impact on the poor.

- ★ The average median income family in America devotes about a nickel out of every dollar of income to energy costs.
- ★ The average low-income family has to devote about 20 cents on the dollar to energy.
- ★ And the average family below the poverty line has to devote as much as 50 cents of every dollar to buy the energy they need to survive.

That means that for the poorest amongst us, before they wake up in the morning half their income is gone and already spent on energy. That means half their income is not available for food, shelter, healthcare, education for their children, or the other necessities of life. In the not

too distant future, seniors, poor people will have to literally choose between paying their heating or cooling bill or vital medications.

Rising energy prices discriminate against the poorest and most disadvantaged among us. As far as government energy assistance programs go, working class Americans don't want energy welfare, they want affordable energy. Government run energy programs almost always fail, and government energy subsidy programs are vulnerable to the political winds of the day.

To underscore my point, disadvantaged people don't want energy welfare. They want affordable prices based on abundant supply, not government subsidies. And absolutely nobody wants high prices based on artificial scarcity caused by bureaucratic bans and regulations.

EPA's current automotive standards enacted in 2000 and implemented beginning in 2004 "require passenger vehicles to be 77 to 95 percent cleaner and reduce the sulfur content of gasoline by up to 90 percent. EPA also says that fuel economy standards will raise automobile sticker prices by $1,000 by 2016 and $3,000 by 2025 (and industry estimates are higher). These higher sticker prices would disqualify 6.8 million potential new car buyers. You can't get the fuel savings if you can't afford the car in the first place.

The legislation before this subcommittee today will help America produce affordable and reliable energy for all its citizens. Mr. Chairman, the Affordable Power Alliance and CORE are not here today with an economic plea, but to give our support to these measures as a moral imperative to remove the bans and regulations that now force energy prices beyond the means of millions of decent and worthy Americans.

Thank you.

Mr. SHIMKUS. Thank you, Mr. Innis, and Dr. Schink, you are recognized for 5 minutes.

STATEMENT OF GEORGE R. SCHINK

Mr. SCHINK. Thank you. Good afternoon, Mr. Chairman and members of the committee. I want to thank you for allowing me to appear before you and testify regarding this very important and relevant topic.

As an economist my work over the past 30 years has been focused largely on the energy industry. Today I am here to discuss some economic issues related to EPA's Tier 3 Motor Vehicle Emission and Fuel Standards.

There are four major points I will make today regarding Tier 3 related to the affects not only on gas prices but also on the environment, human health, and the economy. These points are addressed in more detail in my written testimony.

First, it is vital to understand that Tier 3 has absolutely nothing to do with the recent increases in gasoline prices. The Tier 3 rules have not yet been proposed and will not go into effect until 2017.

The retail price of gasoline depends on numerous demand and supply factors with the global price of crude oil being the most important. The cents per gallon increases in U.S. retail prices and global crude oil prices over the last 3 years are virtually identical. That is the entire increase in U.S. retail gasoline prices over the last 3 years can be fully explained by the increases in global oil prices.

Second, the estimates of the marginal cost to U.S. refiners of meeting of Tier 3 standards prepared on behalf of the oil industry by Baker and O'Brien are significantly overstated. Initially these estimates costs, marginal cost estimates were up to 25 cents per gallon and included the cost to U.S. refiners of reducing both the sulfur content and vapor pressure of gasoline.

However, the EPA has stated that the Tier 3 rules only involve reducing the sulfur content of gasoline. The oil industry's revised marginal cost estimates for U.S. refineries are 69 cents per gallon for just the sulfur reduction. The oil industry's estimated average increase in U.S. refining costs is only 2.1 cents per gallon.

However, there are two major concerns with the assumptions underlying the oil industry's marginal and average cost estimates. First, the investment cost and resulting annual capital costs are unrealistically high. Second, the cost estimates are developed without taking into account the option of averaging and trading across refineries. The lateral omission biases the marginal cost estimates upward dramatically.

It should be noted that if the latest Baker and O'Brien marginal average cost estimates are correct and the refiners are able to pass the marginal costs onto consumers in the form of higher gasoline prices as implied by their study, the refiners can make a profit from Tier 3. They could sell gasoline for 69 cents per gallon more while incurring only a 2.1 cent per gallon average cost increase. If this is the case, it seems odd the refiners would oppose Tier 3.

There is another study cost that has been performed by MathPro Incorporated for the International Council on Clean Transportation that has more realistic estimates of investment costs and annual

capital costs. The MathPro study calculates an increase in average U.S. refining costs for reducing the sulfur content in gasoline of at most 1.4 cents per gallon. This result is close to the EPA's estimate of about 1 cent per gallon.

The difference between the oil industry's 2.1 cent per gallon estimate and MathPro Inc.'s 1.4 cent per gallon estimate can be explained almost entirely based on the difference between the annual capital costs estimates in the two studies.

Third, when Tier 3 goes into effect in 2017, there may be no increase in gasoline prices for the American consumer. Removing sulfur from diesel fuel will increase the production costs of refineries by a small amount, but there is no certainty that this incremental cost will result in higher retail prices. The retail prices are determined by many factors and impossible to tell to what extent these costs will be passed through.

It is also important to note that the likely increase in the average cost to refining the low-sulfur gasoline is probably in the vicinity of 1 cent per gallon. Even if this cost were passed to the consumers, increase in gas prices would hardly be felt.

Fourth and finally, the increased refining costs associated with reducing the sulfur content of gasoline are likely to be more than offset by environmental and health benefits that will be realized from Tier 3. Tier 3 will be pre-submissions of nitrogen oxides that are responsible for countless health and environmental problems, including asthma, ground level ozone, acid rain, and damage to soil, just to name a few.

For the northeast and Mid-Atlantic regions alone, the annual health benefits by 2018 are estimated to be in the area of—health benefits are estimated to be in the neighborhood of $235 million, which are expected to rise to $1.2 billion over time.

Further, the improvement in health will result in a more productive workforce, which will lead to a more productive economy. Tier 3 will also generate economic benefits. In the auto and emission control industries it will increase jobs and value added to the implementation of the technologies.

I haven't fully evaluated these yet, but my preliminary analysis indicates that these benefits will greatly exceed the cost.

Thank you, again, for allowing me to appear here.

[The prepared statement of Mr. Schink follows:]

Summary of Testimony by George R. Schink before the Subcommittee on Energy and Power
March 28, 2012

1. Current high gasoline prices are not related to "Tier 3"
    - Sharply rising refined petroleum product prices are due primarily to sharply rising global crude prices. Solution to the problem involves promoting increased global crude oil supplies and reduced consumption of refined petroleum products.
2. Cost estimates of Tier 3 by API sponsored study are exaggerated
    - According to the revised API study, reducing sulfur to 10 parts per million (ppm) would increase the marginal cost of producing gasoline 6 to 9 cents per gallon. Using API's data, it can be calculated that the estimated average cost of reducing the sulfur content of gasoline to 10 ppm would be 2.1 cents per gallon.
    - If the latest Baker & O'Brien marginal cost estimates are correct and refiners are able to pass these marginal costs on to the consumer in higher gasoline prices (as implied by the study), the refiners would make a profit from Tier 3 by selling gasoline for 6 to 9 cents per gallon while incurring only a 2.1 cent per gallon average increase in cost.
    - A study by MathPro Inc. sponsored by the International Council for Clean Transportation stated the average cost of reducing sulfur to 10 ppm would be 0.8 to 1.4 cents per gallon.
    - The API study's average cost of reducing sulfur content to 10 ppm is overstated because capital cost estimates are too high. The API study's capital costs amount to $1,666 million or 1.5 cents per gallon versus the MathPro study which amounts to $1,000 million or 0.9 cents per gallon.
    - The API study does not take into account the option of averaging and trading among refineries. Failing to do so tends to overstate the average cost of attainment somewhat and to grossly overstate the marginal cost of attainment.
3. Potential impact of Tier 3 on future retail gasoline prices is uncertain
    - It is impossible to say with any certainty whether the retail price of gasoline will be affected at all by Tier 3. The retail price of gasoline is determined by many factors with the global price of crude oil being the most significant factor. If there is any impact, it is likely to be small.
4. Benefits of Tier 3
    - Reducing sulfur to 10 ppm would reduce nitrogen oxides (NOx) emissions by 25%. Consequently, the threat to human health and the environment arising from NOx emissions would likely decrease significantly.
    - It is a virtual certainty that the increased cost of refining arising from Tier 3 would be more than offset by the economic benefit of improved human health and the economic value added and jobs created in the emission control and auto industries by the implementation of Tier 3

TESTIMONY
OF
GEORGE R. SCHINK, PH.D.
BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES
March 28, 2012

Introduction

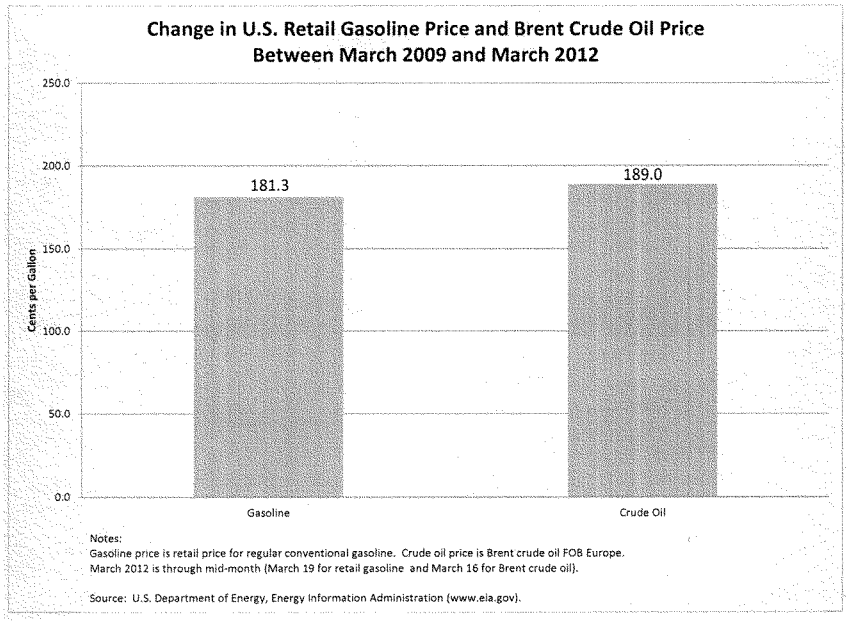
Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss some economic issues related to the implementation of the Environmental Protection Agency's ("EPA's") Tier 3 motor vehicle emission and fuel standards.

I am a Managing Director and Principal at Navigant Economics. I have been engaged by the Emissions Control Technology Association to do a study on the impact of the pending Tier 3 rules on gasoline prices and to assess the cost and benefits of the pending regulation on the economy. I was awarded a B.S. in Economics from the University of Wisconsin in Madison in 1964 and a Ph.D. in Economics at the University of Pennsylvania in 1971. I have been active as an economic consultant in the energy industry for over 30 years and have presented testimony before numerous regulatory bodies, courts and Congress. I have served as a consultant on matters related to the transportation, wholesaling, and retailing of refined products produced by refineries and related to exploration/development, production, gathering, transportation, and refining of crude oil. My consulting work in the oil industry has been done in the context of investigations of industry behavior by the FTC, mergers/acquisitions, FERC regulatory matters, and analyses

prepared for clients' internal planning purposes. My oil industry clients have included major oil companies and oil pipelines.

The Current High Retail Gasoline Prices Are Not Related to Tier 3

Sharply rising prices for refined petroleum product (e.g., motor gasoline, diesel fuel, and jet fuel) are a major near-term economic concern. However, these sharply rising refined petroleum product prices are due primarily to sharply rising global crude oil prices. As shown on the chart below, the increase in the U.S. retail gasoline price between March 2009 and March 2012 can be accounted for entirely by the increase in the Brent crude oil price over the same period. The solution to the problem of sharply increasing crude oil and refined product prices involves promoting increased global crude oil supplies and reduced consumption of refined petroleum products which can be achieved through implementation of new efficient energy using technologies.



The EPA's Tier 3 standards are intended to improve air quality and thereby our health by reducing pollutant emissions by motor vehicles. It certainly is appropriate to assess the cost-effectiveness of implementing the EPA's Tier 3 standard by comparing a valuation of the benefits stemming from reduced pollutant emissions by motor vehicles to the increased cost of producing Tier 3 compliant motor gasoline, and I believe that the EPA will include such analysis in their rulemaking on Tier 3. My testimony focuses on the likely costs and benefits associated with implementing the EPA's Tier 3 standards related to reducing the sulfur content of motor gasoline.

The EPA's Tier 3 standards have absolutely nothing to do with the recent increase in the retail price of gasoline because these standards have not been defined and will not go into effect until 2017. Tier 3 standards could not possibly have any effect on the retail price of gasoline until 2017.

Cost Estimates of Implementing the Tier 3 Standards

The API sponsored a study by Baker & O'Brien, Inc. that estimated the marginal costs to U.S. refiners of reducing the sulfur and vapor pressure ("RVP") in motor gasoline.[1] For its estimate of the marginal cost of implementing the EPA Tier 3 standards, the API uses Baker & O'Brien's highest estimate of the cost of implementing both sulfur and RVP reduction, which is 25 cents per gallon.[2] Baker & O'Brien's corresponding average cost of implementing both sulfur and RVP reductions is 11.8 cents per gallon.[3] The API is incorrect in its claim that the EPA will regulate vapor pressure under its Tier 3 standards. I understand that Administrator Jackson made it clear that vapor pressure will not be regulated under Tier 3 when she appeared before the House Energy and Commerce Committee on February 28, 2012. Therefore, the relevant issue is the cost of sulfur reduction under the Tier 3 standards.

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[1] See Baker & O'Brien, Inc. *Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline*, prepared for the American Petroleum Institute, July 2011 (hereinafter "Baker & O'Brien 2011 Report"), and The Baker & O'Brien, Inc., *Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline*, Prepared for the American Petroleum Institute, March 2012 (hereinafter "Baker & O'Brien 2012 Report").

[2] See API Press Release, "EPA Tier III rulemaking promises higher gasoline manufacturing costs," March 22, 2012. See also Baker & O'Brien 2011 Report, page 48.

[3] Baker & O'Brien base their analysis on an assumption that U.S. refiners annually produce 7,296 thousand barrels per day (MBD) of hydrocarbon gasoline. See Baker & O'Brien 2012 Report, p. 6. This volume equals 111,847.68 million gallons per year. Baker & O'Brien's highest total annual cost estimate for reducing the sulfur content and RVP of gasoline produced by U.S. refiners is $13,220 million. See Baker & O'Brien 2012 Report, page 9. Dividing this total annual cost by 111,847.68 million gallons results in a per gallon cost of $0.118 per gallon or 11.8 cents per gallon.

There are two recent studies that have been performed that assess the effects of implementing the EPA's Tier 3 standards related to reducing the sulfur content of motor gasoline on U.S. refining costs. First, the American Petroleum Institute ("API") has sponsored a study by Baker & O'Brien, Inc. that estimated the potential supply and cost impacts of producing lower sulfur gasoline.[4] Baker & O'Brien stated that reducing the sulfur content of gasoline to 10 parts per million ("ppm") would increase the marginal cost of producing gasoline in the U.S. by 6¢ to 9¢ per gallon.[5] Second, the International Council for Clean Transportation has sponsored a study by MathPro Inc. that estimated the potential costs of reducing the sulfur content of motor gasoline to 10 ppm.[6] MathPro states that the average cost of reducing the sulfur content of gasoline to 10 ppm would be 0.8¢ to 1.4¢ per gallon.[7] While Baker & O'Brien do not report their estimate of the average cost of reducing the sulfur content of gasoline to 10 ppm, it can be calculated from the information they report and is 2.1 cents per gallon.[8] Further, in a letter to Congressman Ed Whitfield dated February 27, 2012, the EPA stated that its estimate of reducing the sulfur content of gasoline to 10 ppm was about 1 cent per gallon, which is consistent with the MathPro Report.

If the latest Baker and O'Brien marginal cost estimates were correct and refiners were able to pass these marginal costs on to consumers in higher gasoline prices (as implied by the study), the

[4] See Baker & O'Brien 2011 Report and Baker & O'Brien 2012 Report.

[5] See Baker & O'Brien, 2012 Report, page 12.

[6] See MathPro, Inc., *Refining Economics of A Natural Low Sulfur, Low RVP Gasoline Standard*, prepared for The International Council for Clean Transportation, October 25, 2011 (hereinafter "MathPro Report").

[7] See MathPro Report, p. 4.

[8] Baker & O'Brien base their analysis on an assumption that U.S. refiners annually produce 7,296 thousand barrels per day (MBD) of hydrocarbon gasoline. See Baker & O'Brien 2012 Report, p. 6. This volume equals 111,847.68 million gallons per year. Baker & O'Brien's total annual cost of reducing the sulfur content of gasoline produced by U.S. refiners to 10 ppm is $2,390 million. See Baker & O'Brien 2012 Report, page 9. Dividing this total annual cost by 111,847.68 million gallons results in a per gallon cost of $0.021 per gallon or 2.1 cents per gallon.

refiners would make a profit from Tier 3 by selling gasoline for 6 cents to 9 cents per gallon more while incurring only a 2.1 cent per gallon average increase in cost. If this is the case, it seems odd that the refiners are opposing Tier 3.

The primary reason why the Baker & O'Brien average cost of reducing the sulfur content of gasoline to 10 ppm appears to be overstated is that its capital cost estimates are too high.[9] The Baker & O'Brien capital cost estimate for an FCC gasoline (naphtha) hydroheater is high relative to other estimates, and this estimate is higher than Baker & O'Brien's cost estimate for an FCC feed hydroheater which is a substantially more expensive unit. The capital cost estimates used by MathPro are more in line with other estimates. The annual Baker & O'Brien capital costs amount to $1,666 million or 1.5 cents per gallon[10] versus the MathPro capital costs which amount to a maximum of $1,000 million or 0.9 cents per gallon.[11] This difference alone accounts for the total difference between the Baker & O'Brien average of 2.1 cents per gallon versus the high end of the MathPro range of 1.4 cents per gallon. The lower end of the cost range for MathPro of 0.8 cents per gallon is obtained by assuming a lower cost to revamp existing units (30% of new grass roots units instead of 50%) and the use of a 7% before-tax return on investment instead of a 10% after-tax return.[12]

[9] A definitive assessment of the Baker & O'Brien results would require access to their model and detailed calculations which are not available because Baker & O'Brien consider them proprietary.

[10] See Baker & O'Brien 2012 Report, pages 6 and 9.

[11] See MathPro Report, page 4. The MathPro annual capital costs are lower than those of Baker & O'Brien primarily because MathPro's investment costs are lower and also because MathPro assumes a 10% after-tax return while Baker & O'Brien assumes a 15% after-tax return.

[12] MathPro Report, page 4.

Further, it appears that the Baker & O'Brien analysis did not take into account the option of averaging and trading among refineries. Such averaging and trading would allow overachievement by efficient refineries to offset underachievement by inefficient refineries. Failure to take averaging and trading into account tends to overstate the average cost of attainment somewhat and to grossly overstate the marginal cost of attainment. Therefore, the Baker & O'Brien marginal cost estimates of reducing the sulfur content of motor gasoline are not realistic.[13]

The Potential Impact of Tier 3 on Retail Gasoline Prices is Small

The implementation of the EPA Tier 3 standards involving a reduction in gasoline sulfur content will not necessarily result in an increase in retail gasoline prices even after the rules go into effect in 2017. Further, the likely average increase in refinery costs is expected to be in the vicinity of 1.0 cent per gallon so any increase that might occur would be small.[14] There is no certainty that even the small increase in U.S. refinery costs associated with reducing the sulfur content of gasoline to 10 ppm would be passed on to consumers. The refiners' margins reflect overall refined petroleum product supply and demand conditions. The retail price of gasoline is determined by many factors with the global price of crude oil being by far the most significant

[13] The MathPro analysis does not explicitly take averaging and trading into account, but its more aggregate approach implicitly takes it into account.

[14] The effect of an increase in refinery costs due to the reduction in the sulfur content of gasoline will be through the effect of this increase on the costs of the marginal supplier of motor gasoline. The API press release and the Baker & O'Brien reports focus on the marginal cost of attainment. The refinery with the highest cost of attainment may not be the marginal supplier of gasoline. Therefore, even if one had a reliable estimate of the marginal cost of attainment, which Baker & O'Brien do not provide, one could not then assume that this marginal cost of attainment would result in an equal increase in the marginal cost of supply of motor gasoline.

factor. Therefore, it is impossible to say with any certainty whether retail gasoline prices would go up after the Tier 3 standards go into effect in 2017.

Benefits of Tier 3

According to a study by Northeast States for Coordinated Air Use Management ("NESCAUM"), reducing the sulfur content of gasoline to 10 ppm would reduce nitrogen oxides emissions (NOx) by approximately a quarter by allowing pollution control equipment to operate more effectively.[15] Nitrogen oxides cause ozone concentrations and are precursor to fine particulate matter. NOx creates a number of health and environmental problems including respiratory problems such as asthma, ground level ozone, haze, water acidification, acid rain, plant damage, soil damage, and oxygen depletion in water.[16] In the Northeast and Mid-Atlantic area, the largest source of NOx is gasoline vehicles which account for almost 30% of NOx emissions.[17] In the Northeast and Mid-Atlantic area, NOx emissions would be decreased by over 51,000 tons per year. In the Midwest and Southeast areas, NOx emissions would be decreased by almost 130,000 tons per year.[18] For the Northeast and Mid-Atlantic area, it is estimated that the annual health benefits by 2018 from low sulfur gasoline could be almost $235 million and up to $1.2 billion.[19] Most of these health benefits are derived from premature deaths avoided by having lower ozone levels. The health benefits from reduced NOx emissions in the Midwest and

[15] Arthur Marin, NESCAUM, Benefits and Costs of Tier 3 Low Sulfur Gasoline Program, CT DEEP SIPRAC Meeting, January 12, 2012 ("Marin Study"), pp. 6-7 and NESCAUM, Assessment of Clean Gasoline in the Northeast and Mid-Atlantic States, November 21, 2011 ("NESCAUM Assessment").

[16] Marin Study, p. 6-7.

[17] NESCAUM Assessment, p. 4-1.

[18] NESCAUM Assessment, p. xi.

[19] NESCAUM Assessment, pp. 5-4 – 5-5. Benefits are measured in 2006 dollars.

Southeast area also would be large. There also would be environmental benefits which are not included in the health benefit evaluation. I am still working on estimating the value of all these benefits, but given that the health benefits in the Northeast and Mid-Atlantic area alone could be as much as $1.2 billion, it is in virtual certainty that the value of all these benefits will substantially exceed the MathPro estimate of the increase in U.S. refinery costs of $1.5 billion per year.

There is an economic benefit of the improved human health that will occur as a result of the reduction in the sulfur content of motor gasoline. Healthier people are more productive and miss less work due to illness resulting in a more productive economy. In addition, the reduction in the sulfur content in motor gasoline will permit the implementation of cost-effective vehicle technologies which will provide substantial environmental benefits at a lower cost than would be possible if the sulfur content of motor gasoline were not reduced. Therefore, reducing the sulfur content of motor gasoline will reduce the costs of the motor vehicles that will satisfy the Tier 3 pollution standards thereby benefitting consumers. Also, there is a further economic benefit due to an increase in value added and jobs created in the emission control and auto industry due to the development and implementation of the Tier 3 technology. I am in the process of quantifying these economic benefits.

Conclusion

It is clear that Tier 3 is not affecting the current price of gasoline, could not possibly affect the price of gasoline until 2017, and the benefits of the rules are expected to far exceed its costs.

Mr. SHIMKUS. Thank you, Dr. Schink, and, again, thank you to the witnesses for your testimony today, and I yield myself 5 minutes for questions.

We have heard a lot today discussing the issue of demand, a lot about supply, and in particular, some of our colleagues on the Democratic side of the aisle believe that perhaps demand can address the price of gasoline, but supply is no part of that equation.

A couple of weeks ago we had Secretary Chu from the Department of Energy here, and I asked a question about whether or not the release that President Obama made last year from the Strategic Petroleum Reserve impacted price, and Secretary Chu said, "I think the supply did make a difference." And we talked about the lifting of the moratorium in 2008 by President Bush when the price of oil dropped $9, and then the price that happened when the "SPRO" was released, it was two times more than the "SPRO" was released, its impact on the price, and he said that is true.

My next question was if long-term decreased demand has an affect on price, then don't basic laws of supply and demand dictate that so will long-term increased supplies, and he said, I absolutely agree. And then the next question, if you increase supply, it will decrease costs. That is what you have admitted to. That is what the "SPRO" did. Is that correct? That was a question to the Secretary of Energy, and Secretary Chu said, "I agree that both supply and demand matter."

Now, we have heard people say that supply doesn't matter. We have heard people testify that supply has no impact, and Mr. Burkhard, in your testimony I don't know if you were able to pick out in Dr. Romm's testimony, he talked about only a—only by reducing demand can the U.S. lower prices at the pump, and I do have a couple of questions for you on that.

Do you agree with that assessment?

Mr. BURKHARD. Well, both the demand and supply set the price. It is not one or the other, but it is, indeed, both. There is a mix of factors that push prices up. There is a mix of factors that push prices down, and the net result is what we see in the price of oil.

Mr. SHIMKUS. Dr. Romm says that U.S. demand has decreased while U.S. production has increased over the past few years, yet oil and fuel prices have continued on an upward trajectory over that same time period.

Do supply and demand data only from the U.S. explain the global price of oil?

Mr. BURKHARD. No, they don't, but because it is a global market as has been discussed here, and both the demand trends in the U.S. and the supply trends in the U.S. have had a big impact. The U.S. is the biggest oil consumer. It is the third largest oil producer. If you look at supply, U.S. liquid's production has increased 1.3 million barrels per day in the last 3 years. That is by far, by far the largest increase of any country in the world.

Mr. SHIMKUS. Well, then do you agree then that more U.S. oil production won't help lower prices?

Mr. BURKHARD. That more production won't——

Mr. SHIMKUS. Well, not——

Mr. BURKHARD. It is in more—economic logic would dictate that more supply at a given level of demand would tend to—would be a force to lower prices.

Mr. SHIMKUS. And so any clue if the U.S. was not the third highest producer in the world what prices would be?

Mr. BURKHARD. If we didn't have that supply growth, this great revival in U.S. oil production, I talked about how tight the market is right now. If we did not have that supply growth, we would probably be faced with an even tighter market today and probably higher prices.

Mr. SHIMKUS. So if you are releasing oil from the Strategic Petroleum Reserve in order to impact price, then it makes sense then to have long-term policies in place to increase overall U.S. supplies as good solid policy?

Mr. BURKHARD. Yes. Short term or long-term supply does matter, just like demand does.

Mr. SHIMKUS. Thank you. Mr. Coleman, some have said that oil companies are sitting on millions of acres of land but not producing any oil from their leases. What are the problems with that characterization in your opinion?

Mr. COLEMAN. Mr. Chairman, there are many problems with that. Number one, it defies economic logic. Companies have to pay substantial amounts of money to get these leases. They have to pay a lot of money to maintain them every year. They have a lot of expenses in studies and surveys to—before they could ever go out and try to even apply for a permit to drill.

Yet the idea that companies just sit on an asset just to drain money out of the corporation is ridiculous, and I talked about it in my testimony, in my written testimony, how difficult it is and what length of period of time it takes to get a permit from the Federal Government versus State permitting agencies.

The amount of red tape and the studies and reviews that have to be gone through to be able to move forward on Federal land are not comparable to States. So I really take offense at people who say they are just sitting on this stuff and not making use of it. There is always work to be done in the continuum.

Mr. SHIMKUS. And without objection I would enter into the record a letter from Steven Allred at the United States Department of Interior discussing the Federal Government's policy when it comes to using leases and the difficulty it is, that it takes in order to move forward with the leasing and achieve a permit.

[The information follows:]

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

JUN 2 5 2008

The Honorable Don Young
Ranking Republican Member
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Young:

Thank you for your letter of June 19, 2008, to Secretary Kempthorne regarding a recent report on oil and gas by the House Committee on Natural Resources. Secretary Kempthorne has asked me to reply.

In your letter you asked that the Department of the Interior (Department) address the report's claim that oil companies hold non-producing leases on 68 million acres which could produce 4.8 million barrels of oil and 44.7 of natural gas each day.

The report does not reference specific locations for much of the data and therefore we cannot ascertain where each of the numbers was derived. It appears the report took raw data, some of which can be found on the Department websites, and then used various formulas to reach certain conclusions. The report does not disclose the assumptions or formulas used.

The views contained in the report are based on a misunderstanding of the very lengthy regulatory process. The existence of a lease does not guarantee the discovery of, or any particular quantity of oil and gas. To truly determine this, lessees must develop data and eventually explore their leases which requires numerous permits involving compliance with various environmental laws and regulations. This process often takes months or years. In addition, lessees undertake a vast array of business steps prior to making a decision to move a lease into production, and must obtain another set of Federal and State permits to do so. I would like to provide some background on both points.

Obtaining a lease is just the first step. The lessee must first obtain the myriad of permits and approvals for exploration activities and development plans that are required before production can occur. Exploration, which occurs after the issuance of the lease, is critical. For example, after an operator acquires an onshore lease they must obtain Geophysical Permits, Permits to

Drill, Sundry Notices, and permits that may be required by State government. In addition to all necessary permits being obtained, an operator must also file a plan of development.

Development offshore is equally complex. An operator must obtain Geological and Geophysical Exploration Permits, Environmental Protection Agency National Pollutant Discharge Elimination System Permits, an Army Corps of Engineers Permit, Permits to Drill, and Marine Mammals/Endangered Species Permits. If a lessee makes the decision to move to development, in addition to the myriad of required permits, an operator must file numerous plans, including Deepwater Operations Plans, Oil Spill Response Plans, Hydrogen Sulfide Plans, Development Plans or Development Operations Coordination Documents.

While these lists are not exhaustive, they illustrate the efforts that must be undertaken before a lease can be explored and developed and production comes online. A more comprehensive list of the various permits, approvals, and other legal and regulatory prerequisites that may be required based on site specifics for both onshore and offshore production is attached for your information.

In addition to the processes mentioned above, other factors affect potential development and subsequent production. These factors include capital investments and equipment such as drilling rigs and platforms.

In shallow water, approximately one in three wells results in a discovery of a quantity of oil and/or natural gas sufficient to produce economically In deeper water, one well in five is economical. Shallow wells cost approximately $200,000 for just the drilling. In deepwater, the drilling of one well may cost $100 million to $200 million. A full development project, including a platform or floater, involves multiple blocks and has cost as much as $3.5 billion. Onshore development is less expensive. A well 10,000 feet or deeper well will $2 million to $3 million. A shallow well runs about $200,000.

To illustrate further that a lease does not mean the discovery of oil and gas, it is important to look at the well success rates. For onshore leases, the well success rate is about 10 percent for new areas. For areas already developed, it is much higher – about 95%. For offshore, in shallow water, the success rate is about 33 percent. In deepwater it is about 20 percent.

In the Gulf of Mexico, 1132 new deep water exploration wells have been drilled since 1995, with over 170 new discoveries. While the government does conduct activities to determine resource availability, it is the private sector that funds exploration activities for more refined data and analysis on a site specific basis that can lead to production. The lengthy processes we have in place can lead to more production but it takes time to find the exact location of those resources.

In today's market, it does not make business sense for lease holders to defer or forgo pursuing production and continue to pay rental fees. In addition to the bonus bid paid at the time of a

lease being issued, lessees are required to pay rentals for leases. In Fiscal Year 2007, $267.2 million in rental fees was collected as rent for oil and gas, coal, and other mineral leases.

If a lessee determines that leased acreage does not contain sufficient resources to produce economically, it will typically relinquish the lease, and the Federal Government is free to offer the tract at a subsequent lease sale. However, only after numerous steps are taken, and leased acreage is determined to contain economically and technologically producible oil and gas, can a lessee justify the significant investment required to bring leased acreage into producing status.

While increasing the productivity of already leased land is important, to ensure our country's future security and economic well being we need to open new areas for development. The lengthy processes we have in place, which can lead to more production, means that we need to look to new areas. We cannot ignore that the world's demand for oil has grown dramatically. Meanwhile, the supply of oil has grown much more slowly. As a result, oil prices have risen sharply, and that increase has been reflected at American gasoline pumps.

Sincerely,

C. Stephen Allred
Assistant Secretary,
Land and Minerals Management

Attachments

Plans and Permits Required on OCS

The number of required plan and permit approvals is on the order of 25 to 30. The reason for a range is that the specific lease holder may not file for certain permits on their own. For example, they may not file for a G&G (geological/geophysical) permit but it is certain that no lease holder will move forward with out geophysical data to guide them. They may obtain sufficient data from a third party that acquired under their own speculative permit with the intention to sell the information to successful lease bidders. Additionally, there may be supplemental plans filed to cover changes in assumptions based on newer information and other steps that not all lessees will need to file. The overview of MMS regulations is at http://www.gomr.mms.gov/homepg/regulate/regs/reg_sum.html with a discussion of the plans and permits at http://www.gomr.mms.gov/homepg/regulate/regs/laws/env_safe.html#perapp. Following is a fairly complete list of the plans and permits that a lessee may have to file to bring a lease to production:

List of Typical Plans and Permits Required to Bring a Lease to Production

Oil and Gas Lease
Geological and Geophysical Exploration permit
Exploration Plan
Coast Guard Compliance review for mobile drilling units
Oil Spill Response Plan
Oil Spill Financial Responsibility
Hydrogen Sulfide Plan (some locations)
Coastal Zone Management Consistency Determination (Exploration)
Army Corps of Engineers Permit (Navigation and National Security)
EPA National Pollutant Discharge Elimination System Permit
EPA Air Emissions Permit (some locations)
Marine Mammals/Endangered Species permits from NOAA or FWS (some locations)
Application for Permit to Drill (exploratory wells)
Application for Permit to Modify (any changes in drilling program)
Application for Permit to Modify (to plug and abandon exploration wells)
Deepwater Operations Plan (for some locations)
Conservation Information Document (for some locations)
Coast Guard Structural Review (for floating production systems)
Certified Verification Agent Review (for some locations)
Development Plan or Development Operations Coordination Document (depending on location)
Pipeline Right-of-Way
Coastal Zone Management Consistency Determination (Development)
Application for Permit to Drill (development wells)
Application for Permit to Modify (any changes in development drilling program)
Application for Permit to Modify (to plug and abandon development wells)
Platform Removal Application
Pipeline Decommissioning Application

Permits, Plans, and Surveys for Development of an Oil and Gas Lease On-Shore

BLM Permits, Plans, and Surveys

Geophysical Exploration Permit - Notice of Intent; Notice of Completion – (Required if the operator chooses to conduct this optional activity) Purpose: Allows exploration for oil and gas resources on Federal lands.

- **National Environmental Policy Act (NEPA) Review** – Environmental review may consist of review and documentation through a Determination of NEPA Adequacy (DNA), Categorical Exclusion (CX), Environmental Assessment (EA), or Environmental Impact Statement (EIS). (May be completed by the BLM or the Operator to BLM standards. The BLM signs the Decision)
- **Land Use Plan Conformance** – Project evaluated to ensure it is in conformance with the BLM's land use plan.
- **Surveys** - (Completed by the BLM or the Operator.)
    - **Cultural Survey** – Almost always required. Almost always completed through an operator-funded contract with a cultural survey contractor that has been approved by the BLM. May involve consultation with the State Historic Preservation Officer.
    - **Wildlife Surveys** – Frequently required. May be completed by the BLM or the operator to BLM standards.
    - **Endangered Species Act Consultation** – only required when endangered species may be affected by the project.
- **Tribal Consultation** – May occur at the Planning or Permitting stage in areas where Indian tribes have historically used an area or have expressed an interest in proposed projects.

Oil and Gas Lease - (Required) Conveys a basic right to develop oil and gas from Federal Mineral estate pending approval of additional site-specific permits.

- **Land Use Plan Conformance** – The proposed lease is evaluated to ensure it is in conformance with the BLM's land use plan.
- **Tribal Consultation** – May occur at the leasing stage if not current in the land use plan.
- **Endangered Species Act Consultation** – May occur at the leasing stage if not current in the land use plan and there are endangered species present.

Communitization/Unitization Approval - (Some Locations) Creates management units to improve development efficiency.

Plan of Development - (If operations are located within a unit agreement) Creates a development management plan for the Unit.

Application for Permit to Drill (APD) - (Required) Contains the operator's proposed drilling and surface use plans and any additional permit requirements added by the BLM. The BLM may also require Cultural and Wildlife surveys.

- **National Environmental Policy Act (NEPA) Review** – Environmental review may consist of review and documentation through a Determination of NEPA Adequacy (DNA), Categorical Exclusion (CX), Environmental Assessment (EA), or Environmental Impact Statement (EIS). (May be completed by the BLM or the Operator to BLM standards. The BLM signs the Decision)
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Sundry Notice – (Required) Notifies the BLM of the operator's proposed changes to the APD

- **Approval and/or Review** – In limited cases may involve NEPA, Cultural, Wildlife, ESA reviews and consultation.

Hydrogen Sulfide Plan – (Required if the poison gas may be encountered) Plans for protection of public health and safety in the event of a hydrogen sulfide leak.

Right-of-Way Grant – (Required for any development that occurs off the lease area.) Provides legal access for roads, pipelines, and powerlines.

- **National Environmental Policy Act (NEPA) Review** – Environmental review may consist of review and documentation through a Determination of NEPA Adequacy (DNA), Categorical Exclusion (CX), Environmental Assessment (EA), or Environmental Impact Statement (EIS). (May be completed by the BLM or the Operator to BLM

standards. The BLM signs the Decision.) Usually completed in conjunction with the APD NEPA analysis.

- **Land Use Plan Conformance** – Project evaluated to ensure it is in conformance with the BLM's land use plan.
- **Surveys** - (Completed by the BLM or the Operator.)
    - **Cultural Survey** – Almost always required. Almost always completed through an operator-funded contract with a cultural survey contractor that has been approved by the BLM. May involve consultation with the State Historic Preservation Officer.
    - **Wildlife Surveys** – Frequently required. May be completed by the BLM or the operator to BLM standards.
    - **Endangered Species Act Consultation** – only required when endangered species may be affected by the project.
- **Tribal Consultation** – May occur at the Planning or Permitting stage in areas where Indian tribes have historically used an area or have expressed an interest in proposed projects.

Other Federal, State, or Local Permits and Plans

Air Emission Permit (May be required by State)

National Pollutant Discharge Elimination System Permit – (May be required by the State or EPA)

Section 404 Permit – (May be required by the Army Corp of Engineers if the project would potentially dredge or fill waters of the US)

Storm Water Prevention Plan - (Required in some States)

UIC Permit - (Required for Class II wells - water disposal or reinjection)

Spill Prevention Countermeasure Control Plan - This is a permit required by EPA when oil and gas activities have the potential to impact waters of the United States

Mr. SHIMKUS. Thank you, Mr. Coleman.

Mr. Rush, you are recognized for 5 minutes.

Mr. RUSH. I want to thank you, Mr. Chairman. Most of us understand that oil is trading on the global market, and therefore, prices are established based on rule of supply and demand in addition to other geopolitical factors. I think in this panel and the prior panel, I don't think there is any disagreements in that.

A number of prominent oil and energy economists have indicated that tensions with Iran increase demand from China and India, reduce production in Libya, and worried observations about global economic growth are all contributing to rising oil prices.

Mr. Romm, in your testimony you stated that the only thing to protect Americans from rising gasoline prices and global oil fluctuations is by implementing an aggressive strategy to reduce the country's demand for oil. You cite measures such as steadily increasing vehicle fuel efficiency and finding alternative fuels to power our automobiles.

Given your conclusions, do you believe that either of the two bills under consideration will have any noticeable impact on U.S. gasoline prices? And if not, what type of policy and programs should Congress be pursuing in order to resolve this yearly, almost monotonous debate on how to address these rising gasoline prices?

Mr. ROMM. Thanks for that question. No. I don't believe either of the bills in question could substantially or noticeably affect gasoline prices.

I want to clear up something about what I was trying to say in my testimony. I don't think that an aggressive energy efficiency strategy fuel economy standards and alternative fuels would substantially lower prices. I don't, again, the price of oil is set on the world market, and demand is really being driven by countries like India and China.

What we can do, however, is reduce fuel bills, which is the product of the price and the amount that you use personally, let us say, through your vehicle or that the economy uses per dollar of GDP. So the goal if you are trying to reduce the country's vulnerability to an oil shock, price spike that is out of our control because of what happens in the Middle East or somewhere else, is to reduce the amount of oil that an individual uses when they drive their car, and that is what the President has done with the aggressive fuel economy standards he has put on the table, and I think it was Representative Waxman who cited this new EIA analysis which showed that even though we have record gasoline prices, consumers are not seeing record fuel bills because their vehicles are considerably more efficient than they were the last time gasoline prices were very high.

So the goal if you want to make the economy more resilient to the inevitable rising prices driven by other countries and the inevitable price spikes driven by, you know, disasters or conflict in other countries, is to make this country less dependent on oil consumption, decrease oil intensity by making our cars more efficient and by finding substitutes for oil.

Mr. RUSH. Any independent peer review studies that conclude that EPA regulations have harmed U.S. competitiveness, and commercially, are you aware of any independent studies that suggest

that EPA regulations have loosened our competitiveness by giving us market leadership and cleaner technology?

Mr. ROMM. Well, it is a good question. I discuss it somewhat in my testimony. I think it is quite clear that there really are not independent studies that find that EPA regulations have hurt U.S. competitiveness. I mean, I think it is pretty obvious in the case of gasoline. Most of our trading competitors, whether it is Japan or Germany or Great Britain, tax gasoline at a very high level. I mean, if you have been to Europe, you know they are paying $2, $3, $4 a gallon more for gasoline than we are. So some regulation that might affect U.S. gasoline prices by a penny or two pennies can't possibly hurt U.S. competitiveness when they are paying, you know, $2, $3, $4 a gallon more than we are.

What I do think you will find in the literature is that U.S. leadership on clean energy standards, particularly the automotive industry, created leadership in pollution control technology, catalytic converters, and in fact, the low sulfur standards ironically have allowed U.S. diesel producers to sell diesel into the European market because it now meets their standard.

So I think in general it is always good, the world is moving towards cleaner energy and lower emissions. The countries that do it first become leaders in the technology, and they create jobs exporting that technology.

Mr. SHIMKUS. The gentleman's time has expired.

The gentleman from Virginia is recognized for 5 minutes. Mr. Griffith.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Mr. Smorch, each of the regulations that would be included in this study would require a refiner to spend capital. What is it like to face these types of capital improvements? Is it easy to arrange for loans, engineering design services, construction permitting, and other steps that may be required to comply?

Mr. SMORCH. That is a great question. One of the things that we look at, you know, like I said in my testimony is I look at where cash and credit is going to be available over a 10-year period, and these regulations come one after the other it seems like. So I am looking at trying to deal with capital for multiple regulations at one time.

OK. For small business refiners in this type of an economy there are some out there that would have a hard time being able to get the credit and raise—and to be able to go and comply with regulation.

There is an example for renewable fuel standard. Thirteen small business refiners got an exemption, an additional 2-year exemption because it was a burden for them. So that just shows that these are burdensome regulations.

Mr. GRIFFITH. If a small refiner is forced out of business, how does that impact the local economy? I know that when small coal operations are forced out, it impacts my district tremendously. What happens when a small refiner is forced out in a local, in the local economy, particularly a rural economy?

Mr. SMORCH. For small companies like CountryMark we do mostly operate in rural communities. In Posey County, Indiana, we are

the second biggest employer in the county, and as I testified, we have about a $2.5 billion per year economic impact.

Other small refiners are similar to that, but they are typically located in rural areas that are remote. They tend to be the biggest employers and have the most economic impact in their areas.

Mr. GRIFFITH. And so that then affects the car salesman, the refrigerator salesman, the Long John Silvers, the McDonald's, et cetera.

Mr. SMORCH. Yes. It is going to affect everybody in the community. When you lose a big employer in any community, it goes away forever.

Mr. GRIFFITH. Yes.

Mr. SMORCH. And you can never recover. Those communities have a hard time recovering in the long term.

Mr. GRIFFITH. That is why a lot of folks in my district are concerned about the whole array of new regulations.

Do you have any examples where different rules would either overlap or contradict each other in regard to your business?

Mr. SMORCH. You know, there was a lot of talk about Tier 3 rules and all that, and EPA hasn't really proposed them yet, but I was able to go and sit on a small business advocacy panel, and so I got to see what they were going to propose. The sulfur standards for me is at CountryMark we just completed construction of our low sulfur gasoline unit to comply with Tier 2, just a couple of years ago. Now we are faced with going and modifying that same equipment and going and to meet a ten-part-per-million standard.

Well, it would have been better for us and more efficient if we would have known that ahead of time because now we have to go and rearrange the equipment we just bought, and I don't even know if we can recoup the cost of that modification or not in the marketplace.

So it does have a vulnerability. So for me that is two regulations I kind of stack on top of each other and really cause us problems in the long term.

Mr. GRIFFITH. And for some businesses, maybe not yours, but for some businesses you start doing that stacking. You collapse the business, and they go out of business.

Mr. SMORCH. That is exactly right.

Mr. GRIFFITH. Mr. Innis, let me ask you talking about small businesses, many small businesses and what I would call micro businesses, the ones that have one or two folks, Mom and Pop operations, are owned by low-income persons who are struggling to work their way to a better life. They are taking a risk, they have opened up a business.

What is the impact of high gasoline prices on small businesses such as this?

Mr. INNIS. The impact of high gas prices or high electricity prices are traumatic. It stifles economic mobility for these entrepreneurs and these small businesses.

Just one quick statistic. The average family right now spends 5 percent of their disposable income on energy costs. Lower income, 20 percent. You fall below the poverty level, 50 percent of your income. That means if you are, if you fall below the poverty level, before you wake up in the morning, half your income is gone, is

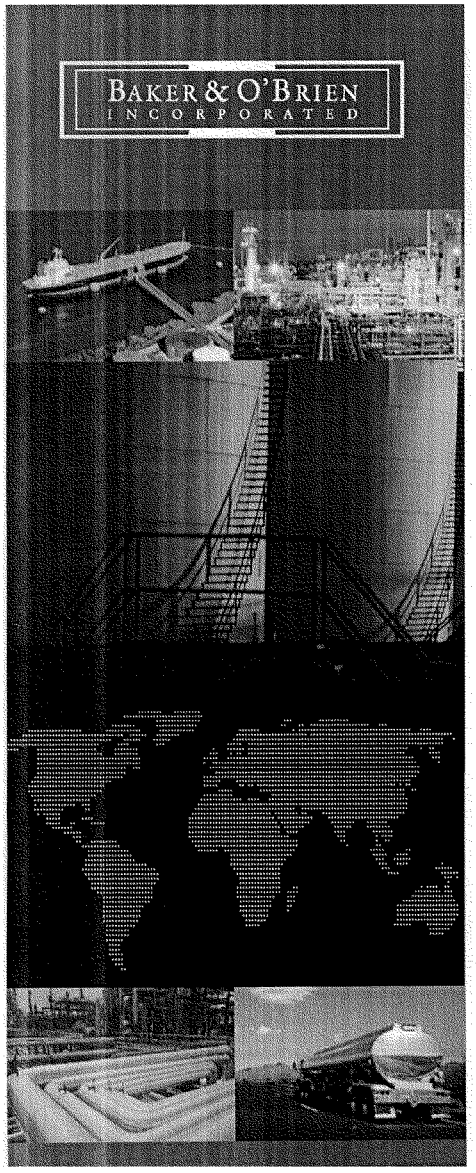
soaked by high energy prices. That means that is income not available for healthcare, for education, for food, for shelter, and forget entrepreneurship, forget investing in this great idea that you might have as a potential entrepreneur.

So it stifles economic mobility, and that is why we consider this fight for affordable access, access to affordable energy as a final frontier for the Civil Rights Revolution.

Mr. GRIFFITH. Thank you very much. I yield back my time.

Mr. SHIMKUS. The gentleman yields back, and I have three things for the record. Without objection I would enter into the record the analysis of the Tier 3 Sulfur Rule conducted by Baker and O'Brien for the American Petroleum Institute, a letter of support for the Gasoline Regulations Act from the American Fuel & Petrochemicals Manufacturers, and a letter of support for the Gasoline Regulations Act from the National Biodiesel Board.

[The information follows:]



Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline

Prepared for
The American Petroleum Institute

Prepared by:
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March 2012

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INTRODUCTION

In July 2011, Baker & O'Brien, Inc. (Baker & O'Brien) completed a report titled, "The Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline" (the Original Report). The Original Report included a Base Case, a Study Case, and three Sensitivity Cases. The Study and Sensitivity Cases addressed a range of potential regulatory scenarios reducing both gasoline sulfur and Reid vapor pressure (RVP). The American Petroleum Institute (API) has engaged Baker & O'Brien to analyze an additional case (Sensitivity Case 4) in which only gasoline sulfur regulations are changed.

General industry conditions, corporate profiles, geographic considerations, and unique refinery characteristics can influence potential responses to regulatory requirements. Therefore, Baker & O'Brien undertook a refinery-by-refinery approach in evaluating the potential impacts of lowering the specifications for sulfur and RVP in gasoline. Compliance options were evaluated and production estimates calculated for each refinery using Baker & O'Brien's *PRISM*™ Refining and Marketing Industry Analysis System. The *PRISM* model is based on publicly-available information, and incorporates Baker & O'Brien's industry experience and knowledge.

Baker & O'Brien conducted this analysis and prepared this report with reasonable care and skill, utilizing methods we believe to be consistent with normal industry practice. No other representations or warranties, expressed or implied, are made by Baker & O'Brien. All results and observations are based on information available at the time of this report. To the extent that additional information becomes available or the factors upon which our analysis is based change, our opinions could be subsequently affected.

REGULATORY ASSUMPTIONS

The gasoline sulfur specifications in Sensitivity Case 4 are the same as the Study Case and Sensitivity Cases 2 and 3, 10 parts per million (ppm) company annual average, with an individual batch limit of 20 ppm. All other gasoline properties are the same as in the Base Case. Gasoline specifications for the original cases and Sensitivity Case 4 are summarized below in Figure 1.

FIGURE 1

GASOLINE SPECIFICATIONS

<table>
<tr><th colspan="3" rowspan="2">Property</th><th rowspan="2">Base Case</th><th rowspan="2">Study Case</th><th colspan="4">Sensitivity Cases</th></tr>
<tr><th>Case 1</th><th>Case 2</th><th>Case 3</th><th>Case 4</th></tr>
<tr><td colspan="2" rowspan="2">Sulfur, maximum ppm</td><td>Company annual average</td><td>30</td><td>10</td><td>5</td><td colspan="3">10</td></tr>
<tr><td>Individual batch</td><td>80</td><td>20</td><td>10</td><td colspan="3">20</td></tr>
<tr><td rowspan="4">Maximum RVP, pounds per square inch absolute (psia)</td><td rowspan="2">Summer</td><td>Base</td><td rowspan="2">Varies regionally</td><td colspan="2">7.0</td><td colspan="2">7.0 to 7.8**</td><td rowspan="2">Varies regionally</td></tr>
<tr><td>1 psia Waiver</td><td colspan="3">No</td><td>Varies</td></tr>
<tr><td rowspan="2">Winter</td><td>Base</td><td colspan="6" rowspan="2">Varies regionally</td></tr>
<tr><td>1 psia Waiver</td></tr>
<tr><td rowspan="2">Benzene, maximum volume percent (Vol.%)</td><td colspan="2">Company annual average</td><td colspan="6">0.62</td></tr>
<tr><td colspan="2">Refinery annual average</td><td colspan="6">1.3</td></tr>
<tr><td colspan="2" rowspan="2">Octane, minimum (R+M)/2</td><td>Regular</td><td colspan="6" rowspan="2">Varies regionally</td></tr>
<tr><td>Premium</td></tr>
<tr><td colspan="2" rowspan="2">ASTM Drivability Index (DI), maximum***</td><td>Summer</td><td colspan="6" rowspan="2">Varies regionally</td></tr>
<tr><td>Winter</td></tr>
<tr><td colspan="3">Ethanol, fixed Vol.%</td><td colspan="6">10</td></tr>
</table>

OTHER ASSUMPTIONS AND ANALYTICAL BASIS

Technology, capital investment, and other input costs in Sensitivity Case 4 are consistent with the Original Report. The gasoline consumption forecast, analytical basis and methodology for forecasting individual refinery compliance responses are the same as in the Original Report.

STUDY RESULTS

COMPLIANCE RESPONSE

Applying the methodology and criteria described in the Original Report, an estimate of the most likely compliance response decisions was made for each refinery in Sensitivity Case 4. Twenty-three refineries would need to upgrade fluid catalytic cracker (FCC) feed hydrotreaters, one refinery would require installation of a new FCC feed hydrotreater, thirteen refineries would need to install new FCC gasoline hydrotreaters, and thirty-three refineries would need to expand or upgrade their existing FCC gasoline hydrotreaters.[1]

In the Original Report Study Case and Sensitivity Cases 1 – 3, the removal of light hydrocarbons from the gasoline pool necessitated a reduction in naphtha and FCC gasoline endpoints to meet the summer Drivability Index (DI) specification. Sensitivity Case 4 FCC gasoline endpoints are the same as the Base Case. As a result, Sensitivity Case 4 required more hydrotreating than the Study Case and Sensitivity Cases 2 and 3.

In the Original Report, as well as the new Sensitivity Case 4, compliance investment requirements were calculated for all refineries, and as discussed in Section 8.8 of the Original Report, these investment requirements were compared to each refinery's "value as an ongoing concern."[2] If the investment requirement exceeded this value, it was assumed that the refiner would not make the compliance investment. This led to decisions to close four to seven refineries in the various Original Report cases. By themselves, none of the compliance investment requirements for Sensitivity Case 4 exceeds the "value as an ongoing concern" threshold, and no refinery shutdowns are projected. It must be noted that if individual refineries face investment requirements due to other regulatory changes, "consent decrees," or other constraints not included in the Base Case, the combination of those costs with the Sensitivity Case 4 requirements might change this conclusion. Also, reductions in petroleum product consumption or other market conditions could change this conclusion.

[1] Individual refineries may appear in multiple categories.
[2] Assumed to be five times the future annual net cash flow.

While total capital investment requirements in Sensitivity Case 4 are similar to Sensitivity Cases 2 and 3, the breakdown of the investments is different. The expected compliance investments are shown below in Figure 2.

FIGURE 2

EXPECTED REFINERY COMPLIANCE INVESTMENTS

	Study Case	Sensitivity Case 1	Sensitivity Case 2	Sensitivity Case 3	Sensitivity Case 4
Refinery Shutdowns	4	7	4	4	0
Number of New Units					
Naphtha Dependanizer	45	43	27	16	0
FCC Dependanizer	40	38	9	9	0
Hydrocracker Dependanizer	23	22	2	2	0
FCC Feed Hydrotreater	1	8	1	1	1
FCC Gasoline Hydrotreater	9	20	9	9	13
Number of Revamps and Expansions					
FCC Feed Hydrotreater	30	28	27	27	23
FCC Gasoline Hydrotreater	32	38	30	30	33
Desulfurization, $MM	9,456	15,112	8,873	8,873	9,766
Logistics/Tankage, $MM	1,187	1,353	740	445	0
Other, $MM	845	878	344	259	0
Total Investment Cost, $MM	11,488	17,343	9,957	9,577	9,766

Note: Individual refineries may appear in multiple categories for each case. Logistics/Tankage, Desulfurization, and Other all include contingency. The Original Report Logistics/Tankage data did not include contingency.

GASOLINE SUPPLY BALANCE AND REFINERY OPERATIONS

In the Original Report Base Case, United States (U.S.) refineries were projected to produce 7,296 MB/CD of hydrocarbon gasoline[3] annually. Hydrocarbon gasoline from other domestic sources was estimated at 200 MB/CD. The combination of domestic production was less than the projected consumption, resulting in a need for annual imports of 885 MB/CD. During the summer season, gasoline imports of 923 MB/CD were required.

The reductions in summer RVP in the Original Report Study and Sensitivity Cases, combined with projected refinery closures, resulted in significant reductions in domestic gasoline production. The summer season reductions ranged from 622 to 1,377 MB/CD. Because RVP specifications were held constant with the Base Case and because no shutdowns are projected, total gasoline production in Sensitivity Case 4 is the same as the Base Case. Details of the gasoline quality and supply balance for Sensitivity Case 4 summer season are reported in Tables 1 through 4.

REFINERY HYDROGEN REQUIREMENTS

In the Original Report cases, the previously-discussed reductions in naphtha end points to meet the DI specification resulted in lower reformer utilization and a reduction in refinery hydrogen production relative to the Base Case. Reformer hydrogen production in Sensitivity Case 4 is the same as the Base Case. In the Original Report cases, the combination of reduced reformer hydrogen production and increased desulfurization resulted in an annualized increase in net hydrogen purchases of 164 to 293 million standard cubic feet per calendar day (MMscf/CD) at refineries that continued to operate in the respective cases. The annualized increase in net hydrogen purchases for Sensitivity Case 4, 129 MMscf/CD, is lower due to the additional reformer hydrogen production. These numbers assume that existing refinery hydrogen plants produce at capacity where needed. It was assumed that the incremental hydrogen purchases would be available from third-party steam methane reformers.

[3] Changes in gasoline production and imports throughout the report are hydrocarbon only. It was assumed that domestic ethanol production and consumption remain constant at Base Case levels.

FIGURE 3

HYDROGEN PURCHASES, MMSCF/CD

	Total U.S.	PADD 1	PADD 2	PADD 3	PADD 4	PADD 5
Base Case*	1,629.7	20.1	36.5	1,326.7	0.8	245.5
Study Case Purchases	1,793.6	28.4	64.8	1,424.5	1.5	274.5
Delta vs. Base Case**	**163.9**	**8.2**	**28.3**	**97.7**	**0.6**	**29.0**
Delta, %	**10%**	**41%**	**77%**	**7%**	**72%**	**12%**
Base Case*	1,618.4	20.1	36.5	1,315.4	0.8	245.5
Sensitivity Case 1	1,911.2	46.3	93.5	1,469.3	1.5	300.5
Delta vs. Base Case**	**292.8**	**26.2**	**57.0**	**153.9**	**0.6**	**55.0**
Delta, %	**18%**	**130%**	**156%**	**12%**	**74%**	**22%**
Base Case*	1,629.7	20.1	36.5	1,326.7	0.8	245.5
Sensitivity Case 2	1,814.4	28.3	64.5	1,416.6	0.8	304.1
Delta vs. Base Case**	**184.7**	**8.2**	**28.0**	**89.9**	**0.0**	**58.6**
Delta, %	**11%**	**41%**	**77%**	**7%**	**0%**	**24%**
Base Case*	1,629.7	20.1	36.5	1,326.7	0.8	245.5
Sensitivity Case 3	1,814.6	28.3	64.5	1,416.5	0.8	304.4
Delta vs. Base Case**	**184.9**	**8.2**	**28.0**	**89.8**	**0.0**	**58.9**
Delta, %	**11%**	**41%**	**77%**	**7%**	**0%**	**24%**
Base Case*	1,662.6	20.1	69.3	1,326.7	0.8	245.5
Sensitivity Case 4	1,791.3	20.9	91.6	1,382.1	0.8	295.8
Delta vs. Base Case**	**128.7**	**0.8**	**22.3**	**55.4**	**0.0**	**50.3**
Delta, %	**8%**	**4%**	**32%**	**4%**	**0%**	**20%**

* The hydrogen purchases are based on the refineries operating in the respective Study or Sensitivity Case relative to Base Case purchases.

** Difference in reported delta values are due to rounding.

GREENHOUSE GAS EMISSIONS

The additional hydrotreating required in Sensitivity Case 4 would result in an increase in carbon dioxide (CO_2) emissions versus the Base Case. The increase in CO_2 emissions in Sensitivity Case 4 versus the Study and Sensitivity Cases in the Original Report is attributed to the number of refineries running and severity of hydrotreating operations.

FIGURE 4

INCREMENTAL CO_2 EMISSIONS, TONNES/CD

CO_2 Emissions	TOTAL U.S.	PADD 1	PADD 2	PADD 3	PADD 4	PADD 5
Base Case*	717,811	48,248	137,968	375,030	24,241	132,323
Study Case	727,748	48,667	140,932	380,321	24,892	132,935
Delta	**9,936**	**419**	**2,964**	**5,292**	**650**	**612**
Base Case*	708,840	48,248	135,811	368,215	24,241	132,323
Sensitivity Case 1	724,976	49,245	139,793	376,141	25,276	134,521
Delta	**16,136**	**997**	**3,982**	**7,926**	**1,035**	**2,197**
Base Case*	717,811	48,248	137,968	375,030	24,241	132,323
Sensitivity Case 2	725,411	48,502	139,524	379,316	24,583	133,486
Delta	**7,599**	**253**	**1,555**	**4,286**	**342**	**1,163**
Base Case*	717,811	48,248	137,968	375,030	24,241	132,323
Sensitivity Case 3	724,951	48,502	139,429	379,135	24,506	133,379
Delta	**7,140**	**253**	**1,461**	**4,105**	**264**	**1,056**
Base Case*	729,459	48,248	146,147	375,030	24,241	135,793
Sensitivity Case 4	733,404	48,339	146,769	377,371	24,353	136,572
Delta	**3,944**	**90**	**622**	**2,342**	**112**	**778**

* The CO_2 values are based on the refineries operating in the respective Study or Sensitivity Case relative to Base Case emissions for those refineries.

Assuming foreign refineries experience a proportional increase, the combined increase in CO_2 emissions would be 1.7 million tonnes per year for Sensitivity Case 4 versus 2.9 to 7.4 million tonnes per year from the cases in the Original Report.

TOTAL COMPLIANCE COSTS

In the cases from the Original Report, the downgrading of light hydrocarbons was the most significant compliance cost. In Sensitivity Case 4, this cost is eliminated, resulting in significantly lower annual compliance costs. Total annual compliance costs are shown below in Figure 5.

FIGURE 5

TOTAL ANNUAL COMPLIANCE COST

2009 $MM PER YEAR

	Study Case	Sensitivity Case 1	Sensitivity Case 2	Sensitivity Case 3	Sensitivity Case 4
Purchased Hydrogen	305	546	354	354	246
Other Variable Operating Expenses	498	749	342	303	455
Fixed Operating Expenses	269	404	37	35	23
Capital Recovery	1,953	2,949	1,693	1,628	1,666
Light Hydrocarbon Downgrading	7,368	8,572	4,363	2,528	0
Total Cost	10,393	13,220	6,789	4,848	2,390

In Figures 6 through 10, the annualized and summer individual refinery compliance costs are plotted in cents per gallon (¢/Gal.) of gasoline for the Study and Sensitivity Cases vs. cumulative barrels of gasoline supplied by U.S. refiners.

FIGURE 6

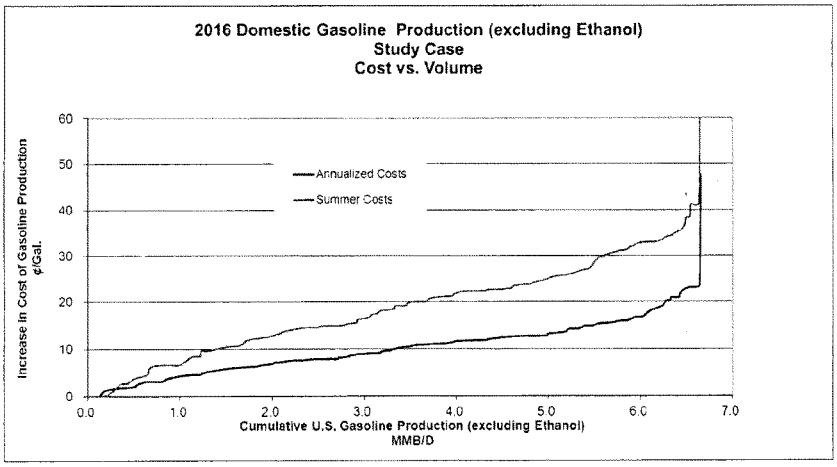


FIGURE 7

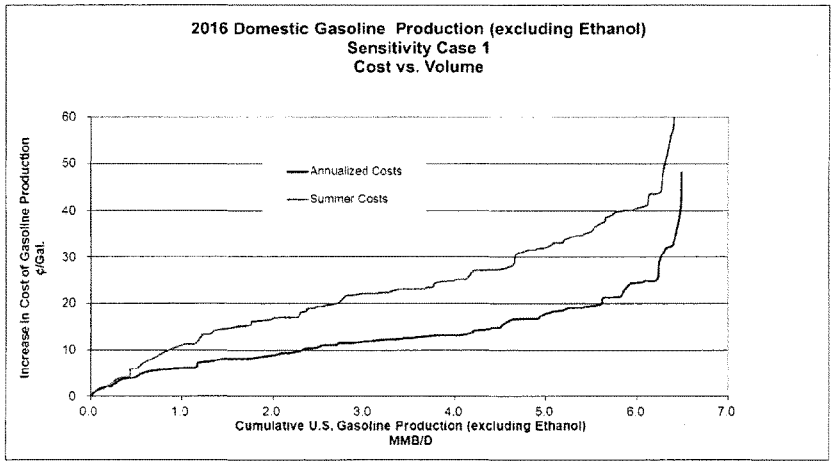


FIGURE 8

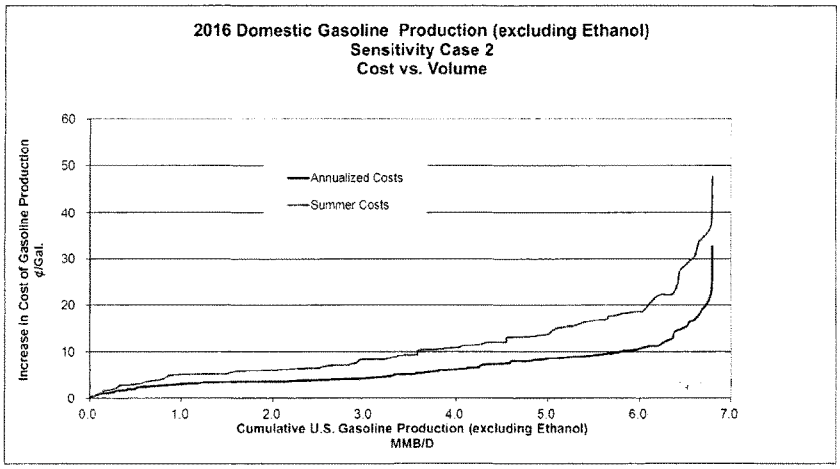


FIGURE 9

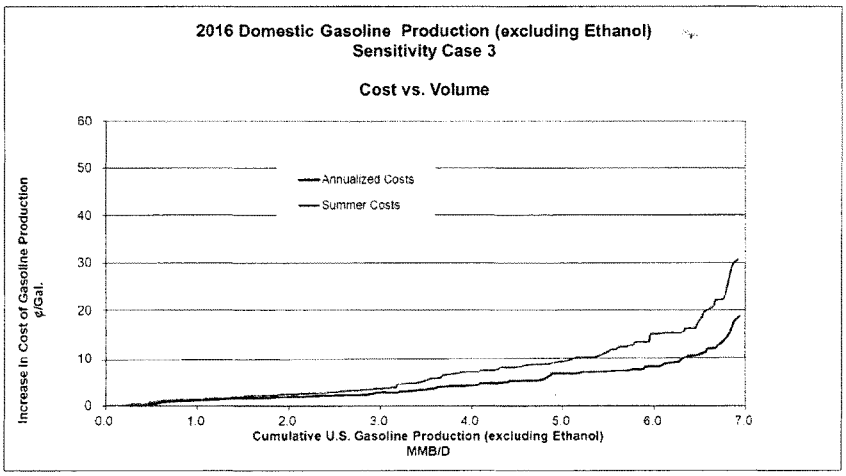
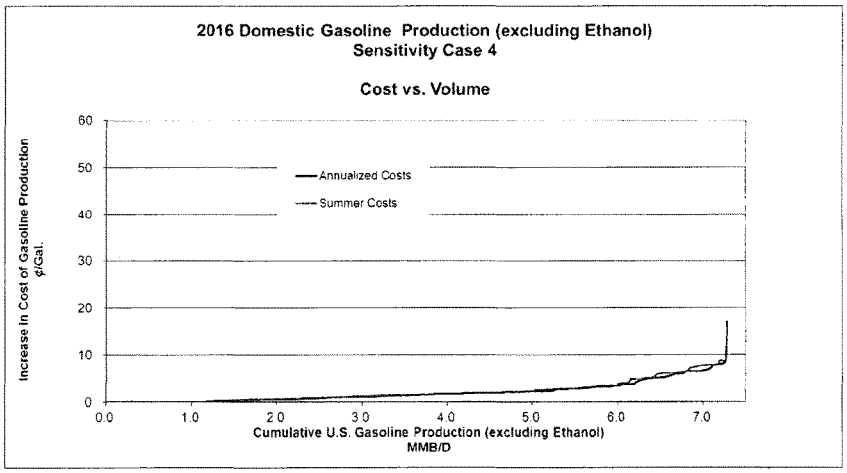


FIGURE 10



CONCLUSIONS

Compliance costs in Sensitivity Case 4 are significant, but the elimination of the RVP changes included in the Original Report removes the substantial costs associated with removing light hydrocarbons from the gasoline pool. The results indicate no change in gasoline supply relative to the Base Case.

Total capital investment costs are projected at just under $10 billion, in the same range as three of the previous cases. Ongoing annual compliance costs, including capital recovery, are estimated at $2.4 billion in Sensitivity Case 4. Allocating these annualized costs to gasoline produced results in a marginal cost of 6¢ to 9¢/Gal. in most markets.

TABLE 1

Sensitivity Case 4 2016 Summer Supply Balance[1,2]

(Thousands of Barrels Per Day - Including Ethanol)

	Ethanol[3]	*Hydrocarbon*	*TOTAL U.S.*	*PADD 1*	*PADD 2*	*PADD 3*	*PADD 4*	*PADD 5*
Domestic Refinery Gasoline Production[4]								
E85	48.4	17.0	65.4	0.4	64.7	0.1	0.0	0.2
Lower Sulfur Gasoline - C	547.1	4,924	5,471	318	1,570	2,842	344	397
Lower Sulfur Gasoline - R	180.6	1,626	1,806	358	345	1,068	-	35
CARB	96.4	868	964	-	-	-	-	964
TOTAL	**873**	**7,435**	**8,307**	**677**	**1,980**	**3,910**	**344**	**1,396**
Gasoline Consumption[5]								
E85	48.4	17.0	65.4	0.4	64.7	0.1	0.0	0.2
Lower Sulfur Gasoline - C	627.0	5,643	6,270	2,132	2,080	1,172	369	517
Lower Sulfur Gasoline - R	210.1	1,891	2,101	1,307	358	345	-	91
CARB	111.8	1,006	1,118	-	-	-	-	1,118
TOTAL	**997**	**8,558**	**9,555**	**3,440**	**2,503**	**1,517**	**369**	**1,726**
Domestic Refinery Over/(Under) Supply[6]								
E85		-	-	-	-	-	-	-
Lower Sulfur Gasoline - C		(719)	(799)	(1,814)	(510)	1,670	(25)	(119)
Lower Sulfur Gasoline - R		(266)	(295)	(949)	(13)	723	-	(56)
CARB		(138)	(154)	-	-	-	-	(154)
TOTAL		**(1,123)**	**(1,248)**	**(2,763)**	**(523)**	**2,393**	**(25)**	**(330)**

NOTES:

(1) "Summer" is defined as April through September. Annual average consumption from the EIA 2010 Annual Energy Outlook Early Release was seasonally adjusted using actual 2005/2006 consumption as reported by the EIA in Petroleum Marketing Monthly.

(2) As described in the main body of the report "Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline"

(3) The difference between the ethanol in Domestic Refinery Gasoline Production and Gasoline Consumption is the ethanol blended into the imported gasoline blendstocks.

(4) Totals represent finished gasoline produced from refinery CBOB, RBOB, and CARBOB as determined by *PRISM* simulations and include 10 Vol.% ethanol added to domestic refinery production. Gasoline blender production, based on blendstock sources other than from domestic refiners, is not included.

(5) Total U.S. gasoline consumption is based on the full year 2016 forecast contained in the EIA 2010 Annual Energy Outlook Early Release. PADD level allocations are based on annual 2005/2006 vehicle miles traveled as reported by the U.S. Department of Transportation. Grade allocations are based on 2005/2006 average annual share of sales as reported in the Petroleum Marketing Annual.

(6) Net supply requirements are from finished gasoline and gasoline blendstocks, excluding oxygenates, either from foreign imports or non-refinery supply.

TABLE 2

Sensitivity Case 4 2016 Summer Regional Finished Gasoline Qualities[1,2]
At Refinery Gate (Before Ethanol is Added)

	TOTAL U.S.	*PADD 1*	*PADD 2*	*PADD 3*	*PADD 4*	*PADD 5*
Domestic Production by Crude Oil Refiners[3]						
Total Pool						
RVP, psi	7.4	7.0	8.1	7.3	8.5	6.8
Olefins, Vol.%	9.7%	12.0%	10.1%	10.6%	9.9%	5.8%
Aromatics, Vol.%	29.1%	28.6%	30.2%	29.4%	27.6%	27.3%
Benzene, Vol.%	0.56%	0.65%	0.61%	0.51%	0.71%	0.54%
Sulfur, wppm	10.2	11.8	11.0	11.3	11.5	4.8
Lower Sulfur Gasoline - C						
RVP, psi	8.4	8.9	8.7	8.0	8.5	8.9
Olefins, Vol.%	11.7%	18.3%	10.2%	12.2%	9.9%	10.3%
Aromatics, Vol.%	32.2%	37.6%	32.1%	32.4%	27.6%	30.7%
Benzene, Vol.%	0.60%	0.67%	0.67%	0.53%	0.71%	0.69%
Sulfur, wppm	11.0	10.4	10.7	11.5	11.5	8.4
Lower Sulfur Gasoline - R						
RVP, psi	5.3	5.3	5.3	5.3	-	5.2
Olefins, Vol.%	6.8%	6.3%	9.8%	6.2%	-	4.5%
Aromatics, Vol.%	21.1%	20.5%	21.7%	21.4%	-	10.4%
Benzene, Vol.%	0.48%	0.63%	0.36%	0.46%	-	0.66%
Sulfur, wppm	11.4	13.2	12.3	10.7	-	7.5
CARBOB						
RVP, psi	5.9	-	-	-	-	5.9
Olefins, Vol.%	4.0%	-	-	-	-	4.0%
Aromatics, Vol.%	26.5%	-	-	-	-	26.5%
Benzene, Vol.%	0.48%	-	-	-	-	0.48%
Sulfur, wppm	3.3	-	-	-	-	3.3

NOTES:

(1) "Summer" is defined as April through September.

(2) As described in the main body of the report "Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline".

(3) *PRISM* simulation results.

TABLE 3

Sensitivity Case 4 2016 Summer Regional Finished Gasoline Qualities[1,2]
(includes Ethanol)

	TOTAL U.S.	*PADD 1*	*PADD 2*	*PADD 3*	*PADD 4*	*PADD 5*
Domestic Production by Crude Oil Refiners[3]						
Total Pool						
RVP, psi	8.6	8.2	9.2	8.5	9.5	8.0
Olefins, Vol.%	8.8%	10.8%	9.1%	9.5%	8.9%	5.2%
Aromatics, Vol.%	26.2%	25.7%	27.2%	26.5%	24.8%	24.6%
Benzene, Vol.%	0.51%	0.59%	0.56%	0.46%	0.65%	0.49%
Sulfur, wppm	10.2	11.6	10.9	11.2	11.3	5.4
Lower Sulfur Gasoline - C						
RVP, psi	9.4	9.9	9.7	9.1	9.5	9.9
Olefins, Vol.%	10.5%	16.5%	9.2%	11.0%	8.9%	9.3%
Aromatics, Vol.%	29.0%	33.8%	28.9%	29.2%	24.8%	27.6%
Benzene, Vol.%	0.55%	0.61%	0.61%	0.48%	0.65%	0.62%
Sulfur, wppm	10.9	10.4	10.6	11.4	11.3	8.6
Lower Sulfur Gasoline - R						
RVP, psi	6.7	6.7	6.8	6.7	-	6.7
Olefins, Vol.%	6.2%	5.7%	8.8%	5.5%	-	4.0%
Aromatics, Vol.%	19.0%	18.4%	19.6%	19.3%	-	9.4%
Benzene, Vol.%	0.43%	0.57%	0.33%	0.42%	-	0.60%
Sulfur, wppm	11.3	12.8	12.1	10.7	-	7.8
CARBOB						
RVP, psi	7.3	-	-	-	-	7.3
Olefins, Vol.%	3.6%	-	-	-	-	3.6%
Aromatics, Vol.%	23.9%	-	-	-	-	23.9%
Benzene, Vol.%	0.44%	-	-	-	-	0.44%
Sulfur, wppm	4.0	-	-	-	-	4.0

NOTES:

(1) *"Summer" is defined as April through September.*

(2) As described in the main body of the report "Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline".

(3) *PRISM* simulation results.

TABLE 4

Sensitivity Case 4 2016 *Summer* Production[1,2]

(Thousands of Barrels Per Day - Including Ethanol)

	TOTAL U.S.	*PADD 1*	*PADD 2*	*PADD 3*	*PADD 4*	*PADD 5*
Domestic Production by Crude Oil Refiners[3]						
E85 Gasoline	65.4	0.4	64.7	0.1	0.0	0.2
Lower Sulfur Gasoline - C	5,471	318	1,570	2,842	344	397
Lower Sulfur Gasoline - R	1,806	358	345	1,068	-	35
CARB Gasoline	964	-	-	-	-	964
Jet Fuel	1,488	79	263	666	41	439
Distillates	4,244	331	893	2,345	170	505
Pentanes	92	2	0	30	-	60
Other[4]	4,126	306	722	2,184	128	786
TOTAL	**18,257**	**1,395**	**3,858**	**9,135**	**682**	**3,186**

NOTES:

(1) "Summer" is defined as April through September. Annual average consumption from the EIA 2010 Annual Energy Outlook Early Release was seasonally adjusted using actual 2005/2006 consumption as reported by the EIA in Petroleum Marketing Monthly.

(2) As described in the main body of the report "Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline".

(3) Totals represent finished gasoline produced from refinery CBOB, RBOB, and CARBOB as determined by *PRISM* simulations and include 10 Vol.% ethanol added to refinery production. Gasoline blender production, based on blendstock sources other than from domestic refiners, is not included.

(4) Includes LPG, residual fuel oil, aviation gasoline, petrochemical feedstocks, lubricants, waxes, asphalt, road oil, still gas, special naphthas, petroleum coke, and miscellaneous petroleum products.

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March 27, 2012

The Honorable Ed Whitfield
U.S. House of Representatives
2368 Rayburn House Office Building
Washington, DC 20515

The Honorable Bobby Rush
U.S. House of Representatives
2268 Rayburn House Office Building
Washington, DC 20515

Re: AFPM supports the Gasoline Regulations Act of 2012

Dear Chairman Whitfield and Ranking Member Rush:

AFPM, the American Fuel & Petrochemical Manufacturers (formerly National Petrochemical & Refiners Association), writes today to express its support for the "Gasoline Regulations Act of 2012." There are many factors that affect gasoline prices. This important legislation addresses one of the factors that government can control by requiring a cost/benefit examination of the many regulations impacting domestic refiners' competitiveness in a global marketplace.

AFPM is a trade association representing high-tech American manufacturers of virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of products vital to everyday life. Our members have been significantly affected by the increasing, and often conflicting, blizzard of federal regulations that impose significant costs with little to no benefit.

The Gasoline Regulations Act will create the Transportation Fuels Regulatory Committee, comprised of administration officials, to conduct an analysis of the cumulative impact of regulations faced by fuel manufacturers. In particular, it would examine the impact of, and interaction among, Tier 3 fuel standards, greenhouse gas regulations, the Renewable Fuels Standard, and ozone NAAQS. Some of the impacts the Committee will examine are gas prices, capital costs, competitiveness, employment, as well as consumers and public health.

Refiners operate in a very competitive market, as they compete with each other and with foreign refiners to provide the highest quality fuels at the lowest cost. The current regulatory environment makes U.S. refiners less competitive in the global marketplace and has been a contributing factor in refinery closures. A Department of Energy report issued in March of 2011 concluded that the cumulative burden of federal regulations was a significant factor in the closure of 66 petroleum refineries in the U.S. since 1990. Recently, three refineries in the Northeast have announced they will be idling and potentially closing due to adverse market conditions exacerbated by escalating expenditures associated with mounting, and often conflicting, government regulations. The Energy Information Administration noted in a

February report on the impact of Northeast refinery closures that prices will likely increase in the short term and that imports, especially from India, will fill the demand. These closures and the associated reports underscore the challenges domestic refiners are facing.

Unfortunately, EPA seems to craft each of these regulations without accounting for the cumulative impact of layering and conflicting policies. The Gasoline Regulations Act is an important step toward building a holistic picture of these regulations so policymakers will have the best information about how they will impact consumer fuel costs and domestic manufacturers.

AFPM urges you to support this important legislation.

Sincerely,

Charles T. Drevna

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March 26, 2012

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power of the
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington DC 20515-6115

Re: Gasoline Regulation Act of 2012

Dear Chairman Whitfield:

We appreciate your inquiry to the National Biodiesel Board (NBB) relating to our insights on the "Gasoline Regulations Act of 2012".

After reviewing the legislation and providing insights relating to adding the Secretary of Agriculture to the interagency committee; together with, expanding the issues being analyzed by the interagency committee we are pleased to add our support for the legislation.

Biodiesel is a renewable, low-carbon diesel replacement fuel made from an increasingly diverse mix of feedstocks including agricultural oils, recycled cooking oil, and animal fats. It is one of the only domestically produced, commercial-scale Advanced Biofuels required by the Renewable Fuels Program – it is readily available and accepted nationwide. It meets a strict ASTM fuel specification and is used in existing diesel engines.

The Renewable Fuels Program (RFS) is working as intended by Congress by adding renewable volume to the diesel pool. In 2011, our industry was a bright spot in the RFS where petroleum companies used more biodiesel than was required under the RFS program. In fact, the biodiesel industry produced nearly 1.1 billion gallons in 2011, which translated directly into nearly 40,000 jobs, generating $2.1 billion in household income and $3.8 billion in GDP.

The current gasoline price spikes should remind all of us why we started this policy in the first place: to reduce our singular reliance on oil and limit our vulnerabilities to wild fluctuations in oil prices, both economically, and as it relates to energy stability and national security.

The use of biodiesel as a blend component with diesel fuel is actually decreasing the cost of diesel at the pump. In fact, a number of discretionary diesel\biodiesel blenders use biodiesel to decrease the cost of diesel at truck stops across the United States. Consider the comments from the following nation-wide truck stop operators:

- Kevin Cassidy, Sapp Brothers Travel Centers, Peru, IL, said the RFS program has "created stability in the sale and use of biodiesel. I am more optimistic than ever that this system can create some permanence for biodiesel because we can sell a product that qualifies for the program and, most important to our business, makes economic sense for both our company and our customers."

- Michael Whitney, Love's Truck Stops, "The impact on biodiesel blending/use on diesel prices has been significant albeit indirect. Over the course of the past year delivered biodiesel prices have been lower than diesel prices. Accordingly, wholesale marketers of diesel have been able to offer biodiesel blends at the rack at a discount to clear diesel (diesel without biodiesel). These discounts have varied over the course of the year from as little as $0.0025 (1/4 of a cent) to as much as 4-5 cents per gallon."

NBB is the national trade association representing the biodiesel industry as the coordinating body for research and development in the U.S. It was founded in 1992, and since that time, NBB has developed into a comprehensive industry association which coordinates and interacts with a broad range of cooperators including industry, government and academia. NBB's membership is made up of biodiesel producers; state, national and international feedstock organizations and feedstock processor organizations; fuel marketers and distributors; and technology providers.

Mr. Chairman we appreciate having the opportunity to provide insights into the Gasoline Regulation Act of 2012 and provide you with NBB's view on this issue of significant importance to the U.S. biodiesel industry. We look forward to serving as a resource for the Committee on issues related to biofuels policy as the Committee proceeds.

Sincerely,

Anne Steckel

Anne Steckel
Vice President of Federal Affairs
National Biodiesel Board

Mr. SHIMKUS. I recognize Mr. Sarbanes for 5 minutes.

Mr. SARBANES. Thank you, Mr. Chairman. Thank you all for your testimony.

I wanted to start with Mr. Smorch. Just real quick, how is your business doing? Is it doing OK?

Mr. SMORCH. Yes. Our business is fine, and one of the things that when you work for a cooperative, we share in our profits with 100,000 farmers. That basically—our profits end up going and are shared out in the rural areas of our marketing area.

So for us we are sharing in profit with 100,000 farmers that are going out, using that money to increase their business.

Mr. SARBANES. Well, I commend you for doing that, and I just wanted to make the point that the upgrades that you needed to implement in response to Tier 2 haven't prevented the business from doing well and still having profits that it can distribute, and I would expect you would be able to handle the Tier 3 requirements as well.

I would like to ask Mr. Coleman, you suggested you were offended at the notion that the people would have leases issued to them, permits, and would not then take advantage of those to produce on the land. Are you questioning the fact that there are a substantial number of permits and leases that have been issued in instances where production has not yet occurred?

Mr. COLEMAN. Congressman, I am offended at the misrepresentation of the situation. Leases are out there. They are working on these leases all the time. It is not possible to drill them all at once because the process that you have to go through to do the analysis of the lease, you get a lease, you may do more analysis, more 3D seismic surveys, and you may—and that takes a while to do. It takes money to finance that. It takes the availability of seismic crews to be able to shoot that seismic. You may have permits, but those may be in litigation. There is a lot of different——

Mr. SARBANES. Well, I sat through a lot of hearings in the Natural Resources Committee. I have heard endless testimony on this question, and I have gotten pretty comfortable with the idea that there is substantial number of situations in which there is nothing preventing the industry from developing, producing, and so forth these leases that they have, and yet they haven't proceeded forward.

So I am equally offended by the notion that these resources would be available, typically given all the arguments that you are making about how we have to increase supply and that the industry would not be pursuing them.

But I am going to run out of time, so I need to turn to Dr. Romm, who I want to thank for your testimony. You put together a terrific set of bullet points about the six key points that you wanted to see, and I wanted to first echo your observation about the benefits the EPA regulations offer us in terms of public health in particular. There is—I just lost it on my iPad, but there is an article that I was referring to earlier which showed great expectations in Maryland about the benefits that would come from Tier 3 in terms of reducing these nitrogen oxides, and the health benefits that would follow reducing smog and so forth. And, you know, limiting the

amount of sulfur that is coming from the gas is one of the most effective ways to impact the pollution out there.

But you also made two points that I thought were intriguing given the purpose of the legislation that was put through here with respect to the Strategic Petroleum Reserve. You noted there is broad agreement among energy experts and economists that increasing domestic oil production will have no noticeable impact on U.S. gas prices for the foreseeable future. And then you also indicated there is only one demonstrated way to reduce gasoline prices in the short term, and that is release of oil from the Strategic Petroleum Reserve.

And as I understand the legislation, the second piece that we are discussing here today, it says that you can't go take action with respect to the Strategic Petroleum Reserve until you put more of these lands into production.

So essentially it is saying you can't go do the one thing that will work until you go do the thing that won't work, which doesn't make any sense to me, and I think really sort of undermines the inherent logic of that particular legislation.

With that I yield back my time.

Mr. SHIMKUS. Thank you. The gentleman yields back, and the Chair recognizes himself for 5 minutes, and actually, the legislation that is before us, the Strategic Energy Production Act, doesn't tie the hands of the President whatsoever in order to access or release energy from the Strategic Petroleum Reserve. In fact, it is very clear that the President may continue to make the decision under any circumstances that comply with the law to release energy from the "SPRO." So the President can continue just as they always have as long as they meet and comply with the conditions of the law that allow for the "SPRO" release to occur in the first place.

But if that happens, and I believe what we have heard today, what we have heard in other places, is that we have heard another witness testify today——

Mr. SARBANES. Mr. Chairman, you just recognized yourself for an additional 5 minutes.

Mr. SHIMKUS. I am sorry. We are doing another round.

Mr. SARBANES. Oh. You want to do another round?

Mr. SHIMKUS. Yes. I am sorry. Yes.

Mr. SARBANES. I didn't understand that. Yes. We can do another round.

Mr. SHIMKUS. Thank you. Thank you. I had a conversation with Mr. Rush, and that is why we switched out. I apologize for that.

But anyway, so the conversations we have had all point to the release of the Strategic Petroleum Reserve causing prices to go down 4 cents a gallon for, you know, a maximum amount of time of a week or so because of the infusion of supply into the marketplace, and it makes sense then if you infuse the marketplace with supply that supply then matters.

And so instead of a quick fix to supply by going into the Strategic Petroleum Reserve, why don't we have a long-term supply policy of increasing domestic production so that we can actually reduce the price long term instead of just for a week or so.

So I think the conversation about the Strategic Petroleum Reserve, the very point of the conversation is that increasing supply

decreases price. So if we increase that supply, we will decrease price, and that is long term as well as short term.

And with that being said, I wanted to get back to this issue of leases on Federal lands. I know Mr. Abbey in the previous panel had talked about the number of acres that are under Federal leases that may or may not be under active production, and, again, I refer to the letter that I entered into the record from Mr. Steven Allred, the Assistant Secretary of Lands and Minerals Management. This is a letter to Don Young, ranking Republican member then in 2008, on the Committee on Natural Resources. And the letter makes reference to the fact that you have a lease doesn't mean that you have production opportunity. It means that you may not have production opportunities to go forward with, and the letter specifically says that the existence of a lease does not guarantee the discovery of or any particular quantity of oil and gas.

Mr. Coleman, can you expand on that a little bit?

Mr. COLEMAN. Yes, Mr. Chairman. Leasing happens based on a general analysis of the area. Then once you get a lease, you do a more specific analysis of the specific leases that you have. That is based on additional seismic surveys rather than potentially a 2D seismic survey which would be used for—and less expense seismic survey used to get the lease, and you do a 3D seismic survey to determine whether you, really looks like you have something there to go after.

That takes a while as I explained in my previous statement. And there are many other hoops that you have to jump through. You have to do surveys with endangered species before you go out and apply for permits. So many, many stages to go through.

This is not a static situation. Just because it is not drilling doesn't mean there is not activity. To say as previous testimony says, sitting on the leases, they are not active on the leases, that is not the case.

Mr. SHIMKUS. Thank you, Mr. Coleman, and Mr. Burkhard, in your opinion would it be responsible to initiate a "SPRO" draw down right now in the face of what could be an extreme supply emergency caused by Iran?

Mr. BURKHARD. Given the potential for what could happen and, again, the oil market is very tense, there is a very limited cushion of spare capacity, the situation with Iran, there is many scenarios that we could come up with which could be startling to the oil market.

So the "SPRO" is intended as a response to a large supply disruption, and we haven't had one yet.

Mr. SHIMKUS. Thank you, Mr. Burkhard, and to your knowledge has the "SPRO" been refilled, the amount of oil that was taken out last year, has it been replaced?

Mr. BURKHARD. It stands at 696 million barrels, which is below what it was last year.

Mr. SHIMKUS. And are you aware of any plans to refill that if there is access to the "SPRO" this summer?

Mr. BURKHARD. I am not aware of any plans.

Mr. SHIMKUS. And so if there is an extreme supply emergency caused by some kind of international conflict, right now there is no plan to actually fill the "SPRO" back up to capacity. In fact, Con-

gress has approved the "SPRO" to go up to a billion barrels, but it is almost 300 million below that. Ss it currently stands it is even lower than capacity at this point. Correct?

Mr. BURKHARD. That is right.

Mr. SHIMKUS. OK. Thank you, Mr. Burkhard, and the Chair now recognizes Mr. Sarbanes for 5 minutes.

Mr. SARBANES. Thank you, Mr. Chair. Before I ask a question I ask unanimous consent to, without objection, to submit two letters to the record. One is from the Consumers Union, the other is from coalition environmental groups, both addressing the legislation that we are looking at here.

Mr. SHIMKUS. Without objection.

[The information follows:]

ConsumersUnion
POLICY & ACTION FROM CONSUMER REPORTS

March 28, 2012

Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Upton and Whitfield and Ranking Members Waxman and Rush:

As groups that represent the interests of ordinary consumers, we respectfully write to raise serious concerns about the bills under consideration at today's hearing: HR 4136 and the discussion draft of the "Gasoline Regulations Act of 2012."

The "Gasoline Regulations Act of 2012" could weaken health-based limits on smog generally and from pollution emitted from vehicles and oil refineries in particular. This proposal would be very harmful to public health. The Clean Air Act has provided tremendous value for Americans and has been a remarkably cost-effective tool, with benefits outweighing costs by more than 3:1. Our air still has a long way to go before it is truly healthy to breathe. Children, seniors, communities of color, and low-income Americans are especially vulnerable to the ill health effects of dirty air. Making it harder for EPA to improve air pollution standards based on the latest scientific information would undermine the Clean Air Act's effectiveness in improving air quality and reducing pollution-related illness.

HR 4136 conditions the drawdown of the Strategic Petroleum Reserve upon increasing oil leases on federal lands, which will not help consumers today. The Strategic Petroleum Reserve is intended to be used on a short-term basis to address emergencies; deliveries from the reserve have an immediate impact on supplies and prices at a local level. Expanding federal lands to leasing could, in the best scenario, lower gasoline prices by a few cents per gallon many years from now, and in all likelihood, it would have a negligible impact on consumer prices. Oil prices are set on a global market, and the U.S. accounts for 11% of global production, with 2% of the world's total reserves.

This month, the Associated Press performed a statistical analysis of 36 years of EIA data on gasoline prices and U.S. domestic oil production and found no statistical correlation between how much oil is produced in the U.S. and the price consumers pay at the pump. Since 1976, the average monthly gas price (adjusted for inflation) during Democratic presidencies has been $2.25, while under Republican presidencies, it has been $2.34, a small difference that is not statistically significant.

Relying on a volatile and global market commodity such as oil for 90% of our transportation needs is indeed a very vulnerable practice. We need a comprehensive energy strategy to reduce this reliance, improve efficiency, and diversify our transportation fuel demand. We urge you to help the American economy move in this direction.

Thank you for considering our views.

Sincerely,

Shannon Baker-Branstetter
Consumers Union

Sally Greenberg
National Consumers League

March 28, 2012

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
US House of Representatives
Washington, DC 20515

Dear Chairman Whitfield,

Our organizations are writing to express our opposition to the Gasoline Regulations Act of 2012, which would delay vital Clean Air Act protections applicable to the largest polluters, diminish crucial public health benefits for all Americans, and will have no discernible impact on gas prices. The bill has far-reaching, adverse health and environmental impacts, including, among others, fundamentally altering ozone public health protections and delaying a protective Tier 3 clean air program for passenger vehicles.

The bill mandates consideration of costs in the determination of ozone health-based air quality standards, overturning 40 years of clean air protection in America. The bill would thwart the intent of a *unanimous, bipartisan* Senate, which in 1970, plainly required the Administrator to establish standards that "are requisite to protect the public health with an adequate margin of safety." The bill would also overturn a *unanimous* Supreme Court decision, where the Court, in an opinion by Justice Antonin Scalia, concluded that the Clean Air Act was clear in its requirement that health-based air quality standards be based solely on health science. The Clean Air Act already thoroughly allows for consideration of economic factors, including cost and feasibility, in implementing pollution control strategies to achieve clean air. By including cost in the standard-setting process, this bill would fundamentally undermine these health-based protections, preventing American families from knowing whether the air they breathe is safe.

The bill also seeks to delay updated emission performance standards for petroleum refineries and a protective Tier 3 clean air program for passenger vehicles, which would significantly cut emissions of nitrogen oxides, carbon monoxide, and volatile organic compounds, translating into more than 400 avoided premature deaths and 52,000 avoided lost workdays each year.[1] The cleaner gasoline needed to secure these clean air benefits would cost less than a penny a gallon – contrary to the erroneous, fear-based claims being made by the petroleum refining industry and its allies about the costs of cleaner, healthier air.

This bill fundamentally undermines these and other health-protective measures, damaging the ability of communities to maintain healthy air and resulting in additional

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[1] NACAA, *Cleaner Cars, Cleaner Fuel, Cleaner Air: The Need for and Benefits of Tier 3 Vehicle and Fuel Regulations*; October, 2011.

sickness and premature death. We cannot afford to delay these vital clean air protections for millions of Americans.

Sincerely,
Center for Biological Diversity
Clean Air Watch
Earthjustice
Environmental Defense Fund
Greenpeace
League of Conservation Voters
Sierra Club
Southern Environmental Law Center
Union of Concerned Scientists

cc: Members, Subcommittee on Energy and Power

Mr. SARBANES. Thank you. This debate over whether we are using the lands that have already been leased we could probably go on all night with it, but I just want to point out some statistics here, again, reiterate that between fiscal year 2009 and fiscal year 2011, the Bureau of Land Management approved almost 14,000 applications for permit to drill, but as of the end of 2011, had yet to begin production on over 7,000 of them, more than half that had been approved. They had yet to begin production, and overall of the nearly 39 million acres that are currently under lease to oil and gas companies, onshore only about 13 million or less than one-third are actually in production.

Now, I understand your point that you take a snapshot. It may not capture what is going on behind the scenes, that industry is making judgments about, you know, which leases are the most important to pursue and what is involved in doing it, so that, you know, it may be that if only one-third of the acreage is in production at a given time that doesn't mean that the other two-thirds is being completely ignored.

But to suggest that we are not making lands, public lands available to the industry to pursue in the context of this idea that have to increase supply, when two-thirds, you know, at least one the surface appear not to be actively in production, I think is sort of pushing the question here, and so, again, I don't want to debate it because we are not going to solve it here today, but I think it is a legitimate point that is being made about the number of acres that are actually out there that have yet to be put into production.

Why don't you respond? I don't want you to feel like you are not getting a chance to respond to this because——

Mr. COLEMAN. Well, Congressman, I appreciate the opportunity to——

Mr. SARBANES. Yes.

Mr. COLEMAN [continuing]. Respond to your comments. This is a very complicated question, you know. Just to give you—for the BOM to give a statistic, OK, this is how much percentage of acreage or how many permits are not being used, I assume they didn't tell you how many of those permits are being litigated, how—what other kind of problems there might be with some of these areas.

These are not static. Litigation comes. It can come——

Mr. SARBANES. I will tell you what because I am going to—I will commit to you that I am going to make this a project of mine to find out the answers to those questions that you are raising.

Mr. COLEMAN. And there are other questions, too.

Mr. SARBANES. Yes. I am sure there are, and we will make sure we get them all, but I am betting that that won't fully respond to the observation that these are not being utilized to the extent they could at a time when we need to increase production, and I am going to have to move on.

I just wanted to ask Mr. Schink if you could speak, you talked about in your testimony but speak to the benefits, well, two things. There is this specter raised that if we have the Tier 3 regulations as we envision they might be because they haven't actually been proposed yet, but if they went into the fact that I would have this substantial impact on the price of gas and you already spoke to how modest that would be, if at all, if it got passed on at all, if you

could reiterate that and then also allude, again, to the benefits in terms of health and protecting the health of the public.

Mr. SCHINK. Yes. I think the reliable estimates are that the cost increase refiners will face is somewhere in the neighborhood of a penny a gallon, and I think there is no guarantee that that will necessarily get passed through, because the refining industry is highly competitive, and it is, you know, whether or not they are able to pass it on is not clear, but even if they are, it is only a penny.

So I think that there has been a lot of skies falling going on and based on numbers that are too high and not justified. I think it is a small effect, if any.

But I think, and I am glad I ran out of time at the end, but, you know, the benefits that come from this in the environmental health area I think are probably some of the most important. The purpose of the regulations are to improve health and environment, and I think this will go a long way.

In the Mid-Atlantic area the emissions from motor vehicles of nitrogen oxide are a high source of that, and this is a cost effective way of trying to reduce it, and the benefits can be very large. I think we both cited the same numbers or at least one study, and that is one area.

The amount of emissions that are in the others are two or three times that much, so the benefits of these other areas could be two or three times the numbers for the Northeast Region. So rather than $1.2 billion it could be $3, $4, $5 billion once we get through it. I haven't done the studies yet. I am not saying that is the number, but I think it could be very big.

And one of the benefits of this——

Mr. SHIMKUS. The gentleman's time has expired. If you could wrap it up, please. Thank you.

Mr. SCHINK. OK. There are benefits because the health benefits of people would be more productive, and this is also very much pro industry. We have a very strong emission control industry and auto industry. They have leadership in this, and this will be a chance for them to, you know, to show their stuff again and generate jobs and investment by moving to meet these standards.

Mr. SHIMKUS. The gentleman's time has expired. Dr. Schink, thank you, and the Chair recognizes the chairman of the subcommittee, Mr. Whitfield.

Mr. WHITFIELD. Thank you very much, and I would like to welcome all the witnesses, and I am sorry that I had to leave for a while, but we genuinely appreciate your being here, and Mr. Meyers, let me ask you a question or two. I know you have spent quite a bit of time over at EPA, and Ms. McCarthy indicated that it was very difficult for them to analyze the cumulative effect of the rules in our bill, and just from your experience at EPA do you think that they have the necessary tools to review the cumulative impact of the regulations that we set out in our legislation?

Mr. MEYERS. Well, I think in any economic analysis that you do you need to make certain assumptions. So you are going to have to make some assumptions that would be clear, but in different ways that are currently done, you do sensitivity analysis, you do

different analysis, different proposals. They will turn it proposals, so I don't see that as insurmountable.

You know, you could basically using current data effectively do a range of proposals as to what you think they might be and do that prospectively. Plus I think I note in the discussion draft, there is a limitation saying it is not required to go beyond available data.

So I think it is a doable option. It is just, you know, whether they want to do it.

Mr. WHITFIELD. Did you hear her testimony today? Did you hear the question and answers with Ms. McCarthy?

Mr. MEYERS. I was here during the hearing. Yes.

Mr. WHITFIELD. Was there anything else that she may have made a comment about that you would like to commend on?

Mr. MEYERS. Well, you know, I think there was basically referenced in my oral I was just saying if Tier 3 is limited to sulfur, that is one thing. There are other authorities in the Clean Air Act regarding fuels that could also be—have an effect on the marketplace in the next 5 years.

Secondly, although when we were talking about the changes on the ozone standard and the authority on the ozone standard, I make two observations. One, they are not inside the act. They don't amend directly the standards saying provision that is inside the Clean Air Act. So that still remains.

That being said, there are still other statutory law talking about cost and feasibility. What I think I tried to point out in my testimony is that EPA examines those issues now in terms of cost of the standards, in terms of postural limitations to scenarios, but what we have is a situation where you are effectively saying to the Administrator, you know, put blinders on. Don't look at the man behind the curtain and try to make this decision.

There are other ways of doing it. The Safe Drinking Water Act, for example, has two concepts in it; MCLG, which is a goal, and then basically a limitation level. So they decide what the goal is.

And the last thing I thought in the written testimony was and that is where we actually referred in the written testimony as a goal. They are not a goal. They are a standard, and I think any State that puts together any Federal implementation plan that is trying to implement a standard knows it is a standard. So I think there is a way around it. What I think the legislation is looking for is a balancing of factors and allowing the Administrator to look at cost and feasibility.

It is a big change. I don't think there is any way of getting around saying it is a big change, but it is something that could be supportable by looking at other statutes.

Mr. WHITFIELD. We know we are getting ready to have some forums on the Clean Air Act simply because it has not been really reviewed in quite a while, and there have been some unintended consequences with the Clean Air Act, and we are looking forward to having these forums to have people come in on all sides of the issue to determine is the Clean Air Act working the way that it was really intended to work today, and we will be getting into that later on.

Mr. Smorch, let me just ask one question. How many refineries do you, are you involved in?

Mr. SMORCH. CountryMark only owns and operates one refinery.

Mr. WHITFIELD. OK. Now, have you estimated the potential impacts of the regulation on gas and diesel prices from EPA's pending rules, and if so, what would the range of increases be?

Mr. SMORCH. Earlier, you know, earlier I mentioned that we were able to share our profits with our members who represent 100,000 farmers in our area, and I thought that was the point of this regulation or the legislation, the Gasoline Regulations Act, to go and look at regulation and how the accumulative effect is going to affect our business.

My job is to try to preserve that that we can go and still provide that and return to our member owners. When I look at the range, and if you look in my written testimony, there is a chart on page 11 that basically, depending on how regulation is developed, it can be as low as 8 to 13 cents a gallon and as high as 39 to 61 cents a gallon, depending on how all the regulations stack on top of each other.

That is an extreme expense that we either have to absorb or is going to have to get transferred to the consumer.

Mr. WHITFIELD. Thank you.

Mr. SHIMKUS. The gentleman's time has expired.

The gentleman from Virginia, Mr. Griffith, is recognized for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Mr. Innis, if I might ask you a few questions, one of the concerns that I have with so many of the regulations that have been proposed by the EPA is that coming from a district that does not have great wealth, we have a few places that are wealthier than others, but we have some really poor areas in particular, I sense that there are actually public health concerns with all these regulations, and I am wondering if you can comment on that, and do you share that concern?

Mr. INNIS. Well, I think what is very important for this committee and others to recognize is that economic sustainability for these communities that are affected by these regulations should be part of the health consideration as well. What high energy costs represent on poor people in particular and working class Americans is the most vicious regressive attacks. As I said before, when you have got to spend a disproportionate amount of your income, be a small family or be a small business, on high energy costs, that takes away income that could be made available for other things, including healthcare.

So I think what is very important, I think it is what—there is no question that the regulations that have gone into effect over the last several decades have helped the American people. It has helped the environment, it has helped the health of the American people.

The question is at what point is there diminishing returns. At what point, I mean, do you attempt to achieve some type of balance where you realize how much more regulation do you want to put on a particular industry and what kind of negative impact potentially could it have on the economy.

Mr. GRIFFITH. And do I hear from your testimony and from comments today that you believe we are at that point of diminishing returns, at least in the current economic situation that we are in?

Mr. INNIS. Well, if you just look at the sulfur rule, and forgive me for not knowing the technical designation, but I believe that the bill or the regulation that was passed in 2000, and implemented in 2004, said you have to regulate emissions, sulfur emissions up to 95 percent. I mean, how much more regulation do you want to implement on top of that? And I think that is the question that this committee has to ask. I believe I have heard several cases that the EPA is not allowed to look at economic impacts on communities, all American communities. Forget lower-income communities but all communities.

So I think this committee as a representative of the people have the moral responsibility to look at those economic impacts.

Mr. WHITFIELD. And I would agree with you on that. I worry about folks on fixed incomes in my district having to heat to a minimal level, one room in their house during the wintertime, and when I asked the EPA if they took that into consideration as part of their health—Lisa Jackson was here last year, and I said, did you take that into consideration when you were looking at the health concerns related to greenhouse gases, the response was, well, we have programs to help those people. Unfortunately, my folks tell me that while it may help the very poorest of the poor, they don't have enough money in those programs to help the working poor and some of the folks who are on fixed income, that it does help the very poorest of the poor, but there are a lot of folks who are not caught in that safety net who then find themselves having to make sacrifices or as you said, do we pay for healthcare or do we pay for heat. And fortunately, we have had a very mild winter, but when you don't have natural gas into every area of the district, when you have a lot of folks using electricity, and those rates have gone up substantially, and you have folks who are using oil to heat their homes, this becomes a very serious health concern in my opinion, and I appreciate that.

Last but not least and it is somewhat of a rhetorical question because I already know the answer, but do you see electric cars and other green energy alternatives a viable option at least today for low-income households?

Mr. INNIS. No. That dog is just not going to hunt in the lower-income communities, but I would argue, though, that the reason we really need to examine these regulations and the impact that they have on all energies, be they renewable or traditional sources of energy, is that even if you can afford the Volt, the Volt to recharge the battery has to be plugged in and has to use electricity. In today's Washington, I believe it was today's Washington Post, it said that some recent EPA regulations, I believe that were released yesterday——

Mr. WHITFIELD. Yes, sir.

Mr. INNIS [continuing]. Are going to cause coal-powered generated power plants, no new ones to be built for the next 10 years. This is while our largest economic competitor, China, is building two per week. What kind of impact is that going to have on electricity, which is going to have on the ability of someone who can

afford that Volt vehicle and needs to plug in to recharge it, what kind of impact is that going to have on the feasibility of this alternative vehicle?

Mr. WHITFIELD. And I think you are submitting that it would have a negative impact, and I would completely agree with you. Thank you.

Mr. INNIS. I am.

Mr. WHITFIELD. I yield back my time.

Mr. SHIMKUS. The gentleman yields back.

Thank you, again, for your time to be here today and appreciate your testimony, and that concludes today's committee.

[Whereupon, at 1:50 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225–2927
Minority (202) 225–3641

April 12, 2012

The Honorable Gina A. McCarthy
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Assistant Administrator McCarthy:

Thank you for appearing before the Subcommittee on Energy and Power on Wednesday, March 28, 2012, to testify at the hearing entitled "The American Energy Initiative." This day of the hearing focused on legislative responses to rising gasoline prices including the discussion drafts of H.R. ____, the "Gasoline Regulations Act of 2012" and H.R.____, the "Strategic Energy Production Act of 2012."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for 10 business days to permit Members to submit additional questions to witnesses, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and then (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please email your responses, in Word or PDF format, to Allison.Busbee@mail.house.gov by the close of business on Thursday, April 26, 2012.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: Bobby L. Rush Ranking Member, Subcommittee on Energy and Power

Attachment

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 2 8 2012

OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Whitfield:

Thank you for your letter of April 12, 2012, requesting responses to Questions for the Record following the March 28, 2012 hearing before the Subcommittee on Energy and Power, entitled "The American Energy Initiative."

The responses to your questions are provided as an enclosure to this letter. Again, thank you for your letter. If you have any further questions, please contact me, or you staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Laura Vaught
Deputy Associate Administrator
for Congressional Affairs

Enclosure

cc: The Honorable Bobby L. Rush, Ranking Member

House Energy and Commerce Committee
Subcommittee on Energy and Power
Hearing
"The American Energy Initiative"
March 28, 2012

Questions for the Record

The Honorable Ed Whitfield

On December 23, 2010, the Environmental Protection Agency (EPA) entered into proposed settlement agreements to issue rules that will address greenhouse gas (GHG) emissions from new and existing fossil fuel-fired power plants and refineries. The settlements provided that EPA would establish new source performance standards (NSPS) for new and modified fossil fuel-fired electric generating units (EGUs) and refineries, and set emissions guidelines for existing affected EGUs and refineries. The settlement agreements specifically provided that EPA would issue propose utility GHG NSPS by July 26, 2011 and finalize the standards by May 26, 2012, and propose GHG NSPS for refineries by December 10, 2011 and finalize them by November 10, 2012.

1. **On March 27, 2012, Administrator Jackson reportedly stated that the agency had no plans to issue greenhouse gas NSPS regulations to address existing power plants.**

    a. **Will EPA finalize performance standards for modified and reconstructed power plants as part of the current rulemaking addressing GHG emissions from new EGUs?**

        i. **If yes when?**

Answer: No. Modified and reconstructed sources are not part of the proposed rule and will not be apart of the final rule.

    b. **Does EPA currently have any rules, guidelines, or guidance under development, or regulatory options under consideration, to address greenhouse gas emissions from existing EGUs?**

Answer: The agency is not currently focused on rules, guidelines or guidance to address greenhouse gas emissions from existing EGUs.

    c. **If there are no rules or guidelines currently under development to address GHG emissions from existing, modified and/or reconstructed EGUs, does EPA plan in the future to establish new source performance standards (NSPS) for modified EGUs, and/or set emissions guidelines for existing affected EGU's as provided for in the utilities-related settlement agreement announced on Dec. 23, 2010?**

i. **If yes when?**

ii. **If no, can EPA assure us that this Administration will not establish NSPS for GHG emissions from modified or existing EGUs?**

Answer: The agency does not have current plans to establish standards for modified EGUs or to set emissions guidelines for existing EGUs.

d. Has the December 23, 2010 settlement agreement addressing utility emissions standards been formally modified? If yes, how has it been modified?

Answer: It has been modified to change the deadline for proposing an NSPS for GHG emissions for new or modified EGUs from July 26, 2011, to September 30, 2011. It also has been modified to change the deadline for proposing emissions guidelines for GHGs from existing EGUs from July 26, 2011 to September 30, 2011.

2. **At the Energy and Commerce budget hearing on February 28, 2012, Administrator Jackson testified that there are no rules currently under development to regulate GHGs from refineries.**

a. Does EPA currently have any rules, guidelines, or guidance under development, or regulatory options under consideration, to address GHG emissions from refineries?

Answer: The agency is not currently focused on rules, guidelines or guidance to address greenhouse gas emissions from refineries.

b. If there are no rules or guidelines currently under development to address GHG emissions from existing, modified and or reconstructed refineries, does EPA plan in the future to establish new source performance standards (NSPS) for refineries as provided for in the refinery-related settlement agreement announced on Dec. 23, 2010?

i. **If yes when?**

ii. **If no, can EPA assure us that this Administration will not establish NSPS for GHG emissions from refineries?**

Answer: The dates specified in the December 23, 2010 refinery-related settlement agreement have passed. And no new dates have been set.

c. Has the December 23, 2010 settlement agreement addressing refinery emissions standards been formally modified? If yes, how has it been modified?

Answer: It has not been modified.

The Honorable Michael Burgess

1. **Some environmental groups have claimed they are getting as much if not more out of your regulations, including your newly-announced GHG regulations, than they ever would have under the Waxman-Markey Cap and Trade program. In terms of power plants, what would you have achieved under Waxman-Markey that you are not getting done through your proposed GHG and other regulations?**

Answer: Waxman-Markey was a legislative proposal to limit greenhouse gas emissions from a range of sources across multiple sectors, including new and existing power plants, using a cap-and-trade mechanism. In contrast, EPA's recent NSPS proposal, if finalized, would address CO_2 emissions from only a certain category of potential new power plants using a performance standard. For the power sector, EPA's 2009 analysis of the Waxman-Markey bill (H.R. 2454 in the 111th Congress) found that 2020 emissions from power plants would be about 21 to 26 percent lower than the business-as-usual forecast, depending on the choice of model (note: economic factors underlying power sector modeling have changed since 2009-including but not limited to electricity supply and demand, natural gas prices and coal prices).[1] In contrast, EPA's 2012 Regulatory Impact Analysis for the recently proposed NSPS for new electric generating units shows negligible CO_2 emissions changes from this sector in 2020 because new power plants that would be built in the next decade would ve expected go meet the proposed standards even in the absence of the rule.

[1] EPA Analysis of the American Clean Energy and Security Act of 2009 H.R. 2454 in the *111th Congress. http://www.epa.gov/climatechange/Downloads/EPAactivities/HR2454_Analysis.pdf.*

Department of Energy
Washington, DC 20585

May 1, 2012

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On March 28, 2012, Christopher Smith, Deputy Assistant Secretary for Oil and Natural Gas, Office of Fossil Energy, testified regarding "The American Energy Initiative."

Enclosed is the answer to one question submitted by Representative Burgess to complete the hearing record.

If we can be of further assistance, please have your staff contact our Congressional Hearing Coordinator, Lillian Owen, at (202) 586-2031.

Sincerely,

Christopher Davis
Deputy Assistant Secretary for
Congressional Affairs

Enclosure

QUESTION FROM REPRESENTATIVE BURGESS

Q1. If the Administration goes ahead and releases reserves from the SPR, what would be the impact on the oil and gas markets if the oil were sold at a fixed price of $40 per barrel?

A1. Such analysis has not been performed. Section 161(e)(1) of the Energy Policy and Conservation Act requires that the Secretary "shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder . . . ."

NAVIGANT
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March 7, 2013

Ed Whitfield
Chairman
Subcommittee on Energy and Power
Congress of the United States
House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D. C. 20515-6115

RE: Response to Request for Information on the MathPro Inc. Study and Its Findings by the Honorable Henry A. Waxman

Dear Congressman Whitfield:

Let me begin with some background information. MathPro Inc. ("MathPro") is a consulting firm that specializes in the technical and economic analysis of the petroleum refining industry and related industries. A major focus of MathPro is the analysis of refining economics and of policy issues bearing on refining. *See* http://www.mathproinc.com/. MathPro's principals, Dave Hirshfeld and Jeff Kolb, have extensive experience in the analysis of oil refining technology and economics, often involving the use of computer-based refinery modeling. In numerous studies for public and private sector clients, they have analyzed regulatory, economic, and technical issues involving the refining industry in the U.S. and various parts of the world. These studies have produced widely-accepted estimates of the refining costs, investment requirements, and other consequences of federal and state policies and regulatory programs (including gasoline and diesel fuel sulfur control, federal and California RFG, MTBE bans, and ethanol mandates). *See* http://www.mathproinc.com/. I had several discussions with Dave Hirshfeld during the course of the preparation of Dr. Singer's and my study of the *Economic Analysis of the Implications of Implementing EPA's Tier 3 Rules.*

The MathPro Study that Dr. Singer and I evaluated was sponsored by the International Council on Clean Transportation. This MathPro Study was an update of a 2009 MathPro study that was prepared for the Alliance of Automobile Manufacturers. The 2009 study dealt with "the technical and economic effects in the U.S. refining sector of the Alliance's proposed federal standard for a national 'clean gasoline' (NCG) for use throughout the United States (ex California). The proposed NCG standard was intended to augment the federal standard for reformulated gasoline (RFG) and to cover all special gasolines ('boutique fuels') and conventional gasoline outside of the RFG areas." *See* MathPro Study, Page 1, footnote omitted. MathPro was retained by the International

Council for Clean Transportation to update and extend the 2009 NCG analysis to cover standards that EPA might consider in its forthcoming rule-making on Tier 3 gasoline. *See* MathPro Study, Page 1.

The MathPro Study that Dr. Singer and I evaluated ("MathPro Study") presents three cases regarding potential new EPA standards. Case 1 involves moving from a 30 ppm sulfur standard to a 10 ppm sulfur standard and keeping the RVP standard at 10 psi. Cases 2 and 3 also use a 10 ppm sulfur standard, but shift RVP standards to 9 psi and 8 psi, respectively. Dr. Singer and I focused on Case 1 because it conforms to the proposed EPA Tier 3 standards. In Case 1, the "estimated investment, annual refining cost, and per-gallon refining cost of meeting the 10 ppm sulfur standard ... are about $3.9 billion, $1.5 billion, and 1.4¢/gallon, respectively." *See* MathPro Study, Page 3.

The MathPro Study employed MathPro's proprietary refinery modeling system which models refinery operations by PADD. This PADD level approach allows MathPro to base their refinery models on the rich and detailed array of U.S. refinery sector data available at the PADD level. Conversely, Baker & O'Brien attempt to model the operation of each refinery on the U.S. If the same rich and detailed array of data were available for each refinery as are available at the PADD level, then the Baker & O'Brien approach might be superior. However, individual refinery data are proprietary to refinery owners forcing Baker & O'Brien to estimate or assume much of the data needed for their modeling efforts. Clearly, Baker & O'Brien and API's claim that the Baker & O'Brien approach is superior is not supported by the facts. Dr. Singer and I concluded that both approaches were defensible and both had limitations. However, the differences in the Baker & O'Brien and MathPro conclusions are not due to differences in their modeling approaches.

The difference in the Baker & O'Brien and MathPro results are due almost entirely to the differences between Baker & O'Brien's and MathPro's estimates of U.S. refiners' compliance-related investment costs. Dr. Singer and I interviewed companies engaged in implementing the refinery upgrades required to reduce the sulfur content of gasoline, and these interviews confirmed that MathPro's estimates were in a reasonable range and that Baker & O'Brien's estimates, on balance, were too high. If the MathPro estimates were implemented in the Baker & O'Brien model, it appears that the Baker & O'Brien and MathPro results would be very similar.

The MathPro Study concludes that the implementation of the EPA Tier 3 rules would increase the refiners' cost of producing gasoline by about 1 cent per gallon, which is consistent with the EPA's estimate of these costs. Dr. Singer and I reviewed the costs to the refining industry compliance with earlier EPA sulfur reduction programs and determined that these earlier results were consistent with MathPro's findings for the EPA Tier 3 rule.

I hope that this letter provides the desired information. I will be glad to respond to additional questions.

Sincerely,

George R. Schink
Managing Director

[The report is available at http://www.theicct.org/sites/default/files/publications/ICCT04—Tier3—Report—Final—v4—All.pdf.]

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